

HOUSE _____ AMENDMENT NO. _____

Offered By

AMEND Senate Committee Substitute for Senate Bill No. 66, Page 1, Line 6 of the title, by inserting after the word, "investments" the following words, "and examinations"; and

Further amend said bill, Page 58, Section 381.068, by removing all of said section from the bill and inserting in lieu thereof the following:

"381.011. 1. Sections 381.011 to 381.412 shall be known and may be cited as the "Missouri Title Insurance Act".

2. The purpose of sections 381.011 to 381.405 is to provide the state of Missouri with a comprehensive body of law for the effective regulation and supervision of title insurance business transacted within this state in response to the McCarran-Ferguson Act, Sections 1011-1015, Title 15, United States Code.

3. Except as otherwise expressly provided in this chapter and except where the context otherwise requires, all provisions of the laws of this state relating to insurance and insurance companies generally shall apply to title insurance, title insurers, and title agents.

381.015. 1. As used in sections 381.011 to 381.412, the term "title insurance commitment" or "commitment" means a preliminary report, commitment, or binder issued prior to the issuance of a title insurance policy containing the terms, conditions, exceptions, and other matters incorporated by reference under which the title insurer is willing to issue its title insurance policy. A title insurance commitment is not an abstract of title.

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1 2. A title insurer, title agency, or title agent issuing a lender's title insurance policy in
2 conjunction with a mortgage loan made simultaneously with the purchase of all or part of the real
3 estate securing the loan, where no owner's title insurance policy has been requested, shall give
4 written notice, on a form prescribed or approved by the director, to the purchaser-mortgagor at the
5 time the commitment is prepared. The notice shall explain that a lender's title insurance policy is
6 to be issued protecting the mortgage-lender, and that the policy does not provide title insurance
7 protection to the purchaser-mortgagor as the owner of the property being purchased. The notice
8 shall explain that the purchaser-mortgagor may obtain an owner's title insurance policy protecting
9 the property owner, within sixty days of closing and at a specified cost or approximate cost, if the
10 proposed coverages are or amount of insurance is not then known. A copy of the notice, signed
11 by the purchaser-mortgagor, shall be retained in the relevant underwriting file at least fifteen years
12 after the effective date of the policy.

13 3. A violation of any provision under this section is a level one violation under section
14 374.049, RSMo.

15 381.018. 1. The title insurer shall not allow the issuance of its commitments or policies
16 by a title agency or title agent not affiliated with a title agency unless there is in force a written
17 contract between the parties.

18 2. The title insurer shall maintain an inventory of all policy numbers allocated to each title
19 agency or title agent not affiliated with a title agency.

20 3. The title insurer shall have on file proof that the title agency or title agent is licensed by
21 this state at the time a written contract is entered into or before it becomes effective.

22 4. The title insurer shall establish the underwriting guidelines and, where applicable,
23 limitations on title claims settlement authority to be incorporated into contracts with its title
24 agencies and title agents not affiliated with a title agency.

25 5. If a title insurer terminates its contract with a title agency licensed under this chapter,
26 the insurer shall, within seven days of the termination, notify the director of the reasons for
27 termination, including any information that is required to be reported under subsection 5 of
28 section 375.022, RSMo.

29 6. A violation of any provision under this section is a level two violation under section

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1 374.049, RSMo.

2 381.019. 1. A title insurer, title agency or title agent participating in a settlement or
3 closing of a residential real estate transaction shall provide clear, conspicuous, and distinct
4 disclosure of premiums and charges. The director shall adopt rules not in conflict with provisions
5 of the federal Real Estate Settlement Procedures Act, as amended, under section 381.042 to
6 implement disclosure of the following:

7 (1) Premium;

8 (2) Abstract or title search and examination fee and any other associated charges or fees;
9 and

10 (3) Settlement, escrow, or closing fees.

11 2. A violation of any provision under this section is a level two violation under section
12 374.049, RSMo.

13 381.022. 1. As used in sections 381.011 to 381.412, the following terms mean:

14 (1) "Escrow", written instruments, money or other items deposited by one party with a
15 depository, escrow agent, or escrowee for delivery to another party upon the performance of a
16 specified condition or the happening of a certain event;

17 (2) "Qualified depository institution", an institution that is:

18 (a) Organized or, in the case of a United States branch or agency office of a foreign
19 banking organization, licensed under the laws of the United States or any state and has been
20 granted authority to operate with fiduciary powers;

21 (b) Regulated, supervised, and examined by federal or state authorities having regulatory
22 authority over banks and trust companies;

23 (c) Insured by the appropriate federal entity; and

24 (d) Qualified under any additional rules established by the director;

25 (3) "Security" or "security deposit", funds or other property received by the title insurer as
26 collateral to secure an indemnitor's obligation under an indemnity agreement under which the
27 insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide
28 coverage in a title insurance policy for a specific title exception to coverage.

29 2. A title insurer, title agency, or title agent not affiliated with a title agency may operate

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1 as an escrow, security, settlement, or closing agent, provided that all funds deposited with the title
2 insurer, title agency, or title agent not affiliated with a title agency, pursuant to written instructions
3 in connection with any escrow, settlement, closing, or security deposit shall be submitted for
4 collection to or deposited in a separate fiduciary trust account or accounts in a qualified depository
5 institution no later than the close of the second business day after receipt, in accordance with the
6 following requirements:

7 (1) The funds regulated under this section shall be the property of the person or persons
8 entitled to them under the provisions of the escrow, settlement, security deposit, or closing
9 agreement and shall be segregated for each depository by escrow, settlement, security deposit, or
10 closing in the records of the title insurer, title agency, or title agent not affiliated with a title
11 agency, in a manner that permits the funds to be identified on an individual basis and in
12 accordance with the terms of the individual written instructions or agreements under which the
13 funds were accepted; and

14 (2) The funds shall be applied only in accordance with the terms of the individual written
15 instructions or agreements under which the funds were accepted.

16 3. It is unlawful for any person to:

17 (1) Commingle personal or any other moneys with escrow funds regulated under this
18 section;

19 (2) Use such escrow funds to pay or indemnify against debts of the title insurance agent or
20 of any other person;

21 (3) Use such escrow funds for any purpose other than to fulfill the terms of the individual
22 written escrow instructions after the necessary conditions of the written escrow instructions have
23 been met;

24 (4) Disburse any funds held in an escrow account unless the disbursement is made under a
25 written instruction or agreement specifying under what conditions and to whom such funds may
26 be disbursed or under an order of a court of competent jurisdiction; or

27 (5) Disburse any funds held in a security deposit account unless the disbursement is made
28 under a written agreement specifying:

29 (a) What actions the indemnitor shall take to satisfy his or her obligation under the

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1 agreement;

2 (b) The duties of the title insurer, title agency, or title agent not affiliated with a title
3 agency with respect to disposition of the funds held, including a requirement to maintain evidence
4 of the disposition of the title exception before any balance may be paid over to the depositing
5 party or his or her designee; and

6 (c) Any other provisions the director may require by rule or order.

7 4. Notwithstanding the provisions of subsection 3 of this section, any bank credits, bank
8 services, interest, or similar consideration received on funds deposited in connection with any
9 escrow, settlement, security deposit, or closing may be retained by the title insurer, title agency, or
10 title agent not affiliated with a title agency as compensation for administration of the escrow or
11 security deposit, unless the specific written instructions for the funds or a governing statute
12 provides otherwise.

13 5. Notwithstanding the provisions of subsection 2 of this section, a title insurer, title
14 agency, or title agent is not authorized to provide such services as an escrow, security, settlement,
15 or closing agent in a residential real estate transaction unless as part of the same transaction the
16 title insurer, title agency, or title agent issues a commitment, binder, or title insurance policy and
17 closing protection letters have been issued protecting the buyer's and the seller's interests, or the
18 title agency or agent has given written notice to the affected person in a title insurance
19 commitment or on a form approved by rule promulgated by the director that the person's interest
20 in the closing or settlement is not protected by the title insurer, title agency, or title agent.

21 6. It is unlawful for any title agency or agent to engage in the handling of an escrow,
22 settlement or closing, of a residential real estate transaction unless the escrow handling, settlement
23 or closing is conducted or performed in contemplation of and in conjunction with the issuance of
24 a title insurance policy or a closing protection letter, or prior to the receipt of any funds, the title
25 agency or agent clearly discloses to the seller, buyer or lender involved in such escrow, settlement
26 or closing, that no title insurer is providing any protection for closing or settlement funds received
27 by the title agency or agent.

28 7. A violation of any provision under this section is a level three violation under section
29 374.049, RSMo.

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1 381.023. 1. A title insurer shall, at least annually, conduct an onsite review of the
2 underwriting, claims, and escrow practices of the title agency or agent with which it has a
3 contract. If the title agency or agent does not maintain separate fiduciary trust accounts for each
4 title insurer it represents, the title insurer shall verify that the funds held on its behalf are
5 reasonably ascertainable from the books of account and records of the title agency or agent.

6 2. Each title insurer authorized to do business in Missouri shall adopt and utilize the
7 following standards and procedures for the onsite review of title agencies and agents. Onsite
8 review documentation, work papers, summaries, and reports shall be maintained by each title
9 insurer for a period of at least four years and shall be made available to the director for
10 examination upon request. A report shall be prepared by the title insurer at the completion of the
11 onsite review setting forth the title insurer's findings. Onsite review findings shall include, but not
12 be limited to, the following:

- 13 (1) A review of contracts between the title insurer and the title agency or agent;
14 (2) A confirmation that the title agency or agent has prepared an annual statement of
15 financial condition of the title agency or agent, certified by the title insurance agent or designated
16 agent of the title agency under oath or by affirmation as being a true and accurate representation of
17 financial condition;
18 (3) A review of policies and practices related to conflicts of interest affiliated business
19 arrangements, and regulatory compliance;
20 (4) Reconciliation of orders with commitments, title searches, title policies, and collection
21 of premiums;
22 (5) A review of the agent's procedures for tracking issued commitments;
23 (6) A review of the practices to cancel commitments on transactions that do not close;
24 (7) A review of the procedures for follow-up after closing to track status of outstanding
25 conditions required for timely issuance of policies;
26 (8) A review of the procedures for voiding policies;
27 (9) A review of the tracking of open escrow, security, settlement or closing files;
28 (10) A review of issued policy reports to the title insurer by the title agency or agent;
29 (11) A review of any files awaiting policy issuance that includes a determination of the
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1 average length of time between closing and the issuance of the title policy; and

2 (12) A review of a three-way reconciliation of bank balance, book balance and escrow
3 trial balance for each individual escrow bank account.

4 3. If the title agency or agent is an agency or agent for two or more title insurers, the title
5 insurers may cooperate in complying with the requirements of this section and shall be exempt
6 from liability for sharing findings with other title insurers represented by the agency or agent.

7 4. The title insurer shall provide a copy of the report of each such review it performs to
8 the director. The director shall promulgate rules setting forth the minimum threshold level at
9 which a review would be required, the standards thereof and the form of report required.

10 5. A violation of any provision under this section is a level two violation under section
11 374.049, RSMo.

12 381.024. 1. It is unlawful for any title agency or title agent not affiliated with an agency
13 to unreasonably deny access or fail to cooperate with its underwriters in the title insurers' reviews
14 of the agency's or agent's escrow, settlement, closing and security deposit accounts.

15 2. It is unlawful for any title agency or title agent not affiliated with an agency, appointed
16 by two or more title insurers, to deny any of the title insurers access to the fiduciary trust accounts
17 in connection with providing escrow or closing settlement services, and any or all of the
18 supporting account information in order to ascertain the safety and security of the funds held by
19 the title agency or title agent.

20 3. A violation of any provision under this section is a level two violation under section
21 374.049, RSMo.

22 381.025. 1. As used in this section, the term "county" or "counties" includes any city not
23 within a county.

24 2. Nothing in sections 381.011 to 381.412 shall be construed as prohibiting the division of
25 premiums and charges between or among a title insurer and its title agent or agency, two or more
26 title insurers, one or more title insurers and one or more title agents or agencies, or two or more
27 title agents or agencies, provided such division of premiums and charges does not constitute a
28 violation of the Real Estate Settlement Procedures Act, 12 U.S.C. Section 2601, et. seq., as
29 amended.

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1 3. A violation of any provision under section 381.141 is a level three violation under
2 section 374.049, RSMo.

3 4. If the director fails to initiate a proceeding to enforce section 381.141 within forty-five
4 days following receipt of written notice of such violation, any title insurer, title agency, or title
5 agent doing business in the same county may maintain an action for injunctive relief against a title
6 insurer, title agency, or title agent violating any provision of this section. In any action under this
7 subsection, the court may award to the successful party the court costs of the action together with
8 reasonable attorney fees.

9 381.026. 1. The settlement agent shall present for recording all deeds and security
10 instruments for real estate closings handled by it within five business days after completion of all
11 conditions precedent thereto unless otherwise instructed by all of the parties to the transaction.

12 2. Nothing in this chapter shall be deemed to prohibit the recording of documents prior to
13 the time funds are available for disbursement with respect to a transaction in which a title insurer,
14 title agency, or title agent not affiliated with a title agency is the settlement agent, provided all
15 parties to whom payment will become due upon such recording consent thereto in writing.

16 381.029. 1. As used in this section, the following terms mean:

17 (1) "Affiliate", a specific person that directly or indirectly through one or more
18 intermediaries, controls, or is controlled by, or is under common control with, the person
19 specified;

20 (2) "Affiliated business", any portion of a title insurance agency's business written in this
21 state that was referred to it by a producer of title insurance business or by an associate of the
22 producer, where the producer or associate, or both, have a financial interest in the title agency;

23 (3) "Associate", any:

24 (a) Business organized for profit in which a producer of title business is a director, officer,
25 partner, employee, or an owner of a financial interest;

26 (b) Employee of a producer of title business;

27 (c) Franchisor or franchisee of a producer of title business;

28 (d) Spouse, parent, or child of a producer of title insurance business who is a natural
29 person;

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1 (e) Person, other than a natural person, that controls, is controlled by, or is under common
2 control with, a producer of title business;

3 (f) Person with whom a producer of title insurance business or any associate of the
4 producer has an agreement, arrangement, or understanding, or pursues a course of conduct, the
5 purpose or effect of which is to provide financial benefits to that producer or associate for the
6 referral of business;

7 (4) "Control", including the terms "controlling", "controlled by", and "under common
8 control with", the possession, direct or indirect, of the power to direct or cause the direction of the
9 management and policies of a person, whether through the ownership of voting securities, by
10 contract other than a commercial contract for goods or nonmanagement services, or otherwise,
11 unless the power is the result of an official position or corporate office held by the person.

12 Control shall be presumed to exist if a person, directly or indirectly, owns, holds with the power to
13 vote, or holds proxies representing ten percent or more of the voting securities of another person.

14 This presumption may be rebutted by showing that control does not exist in fact. The director
15 may determine, after furnishing all persons in interest notice and opportunity to be heard and
16 making specific findings of fact to support the determination, that control exists in fact,
17 notwithstanding the absence of a presumption to that effect;

18 (5) "Referral", the directing or the exercising of any power or influence over the direction
19 of title insurance business, whether or not the consent or approval of any other person is sought or
20 obtained with respect to the referral.

21 2. Whenever the business to be written constitutes affiliated business, prior to
22 commencing the transaction, the title insurer, title agency, or title agent shall ensure that its
23 customer has been provided with disclosure of the existence of the affiliated business arrangement
24 and a written estimate of the charge or range of charges generally made for the title services
25 provided by the title insurer, title agency, or agent.

26 3. The director shall establish rules for use by all title agencies in the recording and
27 reporting of the agency's owners and of the agency's ownership interests in other persons or
28 businesses and of material transactions between the parties.

29 4. The director shall require each title insurer, agency, and agent to file on forms

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1 prescribed by the director reports setting forth the names and addresses of those persons, if any,
2 that have a financial interest in the insurer, agency, or agent and who the insurer, agency, or agent
3 knows or has reason to believe are producers of title insurance business or associates of producers,
4 except the duty to report shall not include shareholders of record of any publicly traded insurer.

5 5. Nothing in this chapter shall be construed as prohibiting affiliated business
6 arrangements in the provision of title insurance business so long as:

7 (1) The title insurer, title agency, title agent, or party making a referral constituting
8 affiliated business, at or prior to the time of the referral, discloses the arrangement and, in
9 connection with the referral, provides the person being referred with a written estimate of the
10 charge or range of charges likely to be assessed and otherwise complies with the disclosure
11 obligations of this section;

12 (2) The person being referred is not required to use a specified title insurer, agency, or
13 agent; and

14 (3) The only thing of value that is received by the title insurer, agency, agent, or party
15 making the referral, other than payments otherwise permitted, is a return on an ownership interest.
16 For purposes of this subsection, the terms "required use" and "return on an ownership interest"
17 shall have the meaning accorded to them under the Real Estate Settlement Procedures Act
18 (RESPA), as amended.

19 6. A violation of any provision under this section is a level two violation under section
20 374.049, RSMo.

21 381.038. 1. For the purposes of this section, the term "direct operations" means that
22 portion of a title insurer's operations which are attributable to business written by a bona fide
23 employee.

24 2. Records relating to escrow and security deposits shall be preserved and retained by a
25 title insurer engaged in direct operations, title agency, and title agent for as long as appropriate to
26 the circumstances but, in no event less than seven years after the escrow or security deposit
27 account has been closed.

28 3. A title agent and a title agency shall remit premiums to the title insurer under the term
29 of its agency contract, but in no event later than within sixty days of receiving an invoice from the

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1 title insurer. A title insurer, title agency, or title agent shall promptly issue each title insurance
2 policy within forty-five days after compliance with the requirements of the commitment for
3 insurance, unless special circumstances as defined by rule delay the issuance.

4 4. This section shall not apply to a title insurer acting as coinsurer if one of the other
5 coinsurers has complied with this section, and shall not apply to a reinsurer.

6 5. A violation of any provision under this section is a level two violation under section
7 374.049, RSMo.

8 381.042. 1. The director under the authority in section 374.045, RSMo, may issue rules,
9 regulations, and orders necessary to carry out the provisions of this chapter.

10 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is
11 created under the authority delegated in this section shall become effective only if it complies with
12 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
13 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested
14 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,
15 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
16 rulemaking authority and any rule proposed or adopted after January 1, 2008, shall be invalid and
17 void.

18 381.045. 1. If the director determines that a person has engaged, is engaging, or has taken
19 a substantial step toward engaging in an act, practice, omission or course of business constituting
20 a violation in this chapter or a rule adopted or order issued pursuant thereto, or a person has
21 materially aided or is materially aiding an act, practice, omission, or course of business
22 constituting a violation in this chapter or a rule adopted or order issued pursuant thereto, the
23 director may issue such administrative orders as authorized under section 374.046, RSMo. The
24 director may also suspend or revoke the license of a producer under section 375.141, RSMo, or
25 the certificate of authority of any title insurer as authorized under section 374.047, RSMo, for any
26 such willful violation.

27 2. If the director believes that a person has engaged, is engaging, or has taken a substantial
28 step toward engaging in an act, practice, omission or course of business constituting a violation in
29 this chapter or a rule adopted or order issued pursuant thereto, or that a person has materially

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1 aided or is materially aiding an act, practice, omission, or course of business constituting a
2 violation in this chapter or a rule adopted or order issued pursuant thereto, the director may
3 maintain a civil action for relief authorized under section 374.048, RSMo.

4 3. Nothing contained in this section shall affect the right of the director to impose any
5 other penalties provided for in the laws relating to the business of insurance.

6 4. Nothing contained in this chapter is intended to or shall in any other manner limit or
7 restrict the rights of policyholders, claimants, and creditors.

8 381.048. 1. The director may bring an action against any title insurer, title agency, title
9 agent, or any director, officer, agent, employee, trustee, or affiliate of a title insurer, title agency,
10 or title agent in a court of competent jurisdiction to enjoin violations of the Real Estate Settlement
11 Procedures Act, 12 U.S.C. Section 2607, as amended.

12 2. A violation of any provision under the federal Real Estate Settlement Procedures Act,
13 as amended, is a level two violation under section 374.049, RSMo.

14 381.052. No person other than a domestic, foreign, or non-United States title insurer
15 organized on the stock plan and duly licensed by the director shall transact title insurance business
16 as an insurer in this state.

17 381.055. Subject to the exceptions and restrictions contained in this chapter, a title insurer
18 shall have the power to:

19 (1) Do only title insurance business; and

20 (2) Reinsure title insurance policies.

21 381.058. 1. No insurer that transacts any class, type, or kind of business other than title
22 insurance shall be eligible for the issuance or renewal of a license to transact the business of title
23 insurance in this state nor shall title insurance be transacted, underwritten, or issued by any insurer
24 transacting or licensed to transact any other class, type, or kind of business.

25 2. A title insurer shall not engage in the business of guaranteeing payment of the principal
26 or the interest of bonds or mortgages.

27 3. (1) Notwithstanding subsection 1 of this section or anything else to the contrary in
28 sections 381.011 to 381.405, a title insurer is expressly authorized to issue closing or settlement
29 protection letters (and to collect a fee for such issuance) in all transactions where its title insurance

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1 policies are issued and where its issuing agent or agency is performing settlement services and
2 shall do so in favor of and upon request by the applicable buyer, lender, or seller in such
3 transaction. Such closing or settlement protection letter form shall be filed with the director under
4 section 381.085 and shall conform to the terms of coverage and form of instrument as required by
5 rule of the director and shall indemnify a buyer, lender, or seller solely against losses not to
6 exceed the amount of the settlement funds only because of the following acts of the title insurer's
7 named issuing title agency or title agent:

8 (a) Acts of theft of settlement funds or fraud with regard to settlement funds; and

9 (b) Failure to comply with written closing instructions by the proposed insured when
10 agreed to by the title agency or title agent relating to title insurance coverage.

11 (2) The rate for issuance of a closing or settlement protection letter in a residential real
12 estate transaction indemnifying a lessee or purchaser of an interest in land, a borrower, or a lender
13 secured by a mortgage, including any other security instrument, of an interest in land shall be filed
14 as a rate with the director.

15 (3) The rate for issuance of a closing or settlement protection letter in a residential real
16 estate transaction indemnifying a seller of an interest in land shall be filed as a separate rate with
17 the director.

18 (4) Such filed rate shall not be excessive or inadequate. The entire rate for the closing or
19 settlement protection letter shall be retained by the title insurer.

20 (5) Except as provided under this section or section 381.403, a title insurer shall not
21 provide any other coverage which purports to indemnify against improper acts or omissions of a
22 person with regard to escrow, settlement, or closing services.

23 381.062. Any title insurer authorized to do an insurance business in this state, shall
24 establish and maintain a minimum paid-in capital of not less than four hundred thousand dollars
25 and, in addition, surplus of at least four hundred thousand dollars. Beginning January 1, 2013,
26 any title insurer authorized to do an insurance business in this state, shall establish and maintain a
27 minimum paid-in capital of not less than eight hundred thousand dollars and, in addition, surplus
28 of at least eight hundred thousand dollars.

29 381.065. 1. The net retained liability of a title insurer for a single risk in regard to real

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1 property located in this state, or in regard to a title insurance policy issued in this state and
2 insuring personal property, whether assumed directly or as reinsurance, shall not exceed the
3 aggregate of fifty percent of surplus as regards policyholders plus the statutory premium reserve
4 less the company's investment in title plants, all as shown in the most recent annual statement of
5 the insurer on file with the director.

6 2. For purposes of this chapter:

7 (1) A single risk shall be the insured amount of any title insurance policy, except that,
8 where two or more title insurance policies are issued simultaneously covering different estates in
9 the same property, a single risk shall be the sum of the insured amounts of all the title insurance
10 policies; and

11 (2) A policy under which a claim payment reduces the amount of insurance under one or
12 more other title insurance policies shall be included in computing the single risk sum only to the
13 extent that its amount exceeds the aggregate amount of the policy or policies whose amount of
14 insurance is reduced.

15 3. A title insurer may obtain reinsurance for all or any part of its liability under its title
16 insurance policies or reinsurance agreements and may also reinsure title insurance policies issued
17 by other title insurers on single risks located in this state or elsewhere. Reinsurance on policies
18 issued on real property located in this state, or on policies issued in this state and insuring
19 personal property, may be obtained from any title insurers licensed to transact title insurance
20 business in this state, any other state, or the District of Columbia and which have a combined
21 capital and surplus of at least one million six hundred thousand dollars.

22 4. The director may waive the limitation of this section for a particular risk upon
23 application of the title insurer and for good cause shown.

24 381.068. In determining the financial condition of a title insurer doing business under this
25 chapter, the general investment provisions of sections 379.080 to 379.082, RSMo, shall apply;
26 except that, an investment in a title plant or plants in an amount equal to the actual cost shall be
27 allowed as an admitted asset for title insurers. The aggregate amount of the investment shall not
28 exceed twenty percent of surplus to policyholders, as shown on the most recent annual statement
29 of the title insurer on file with the director.

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1 381.072. 1. In determining the financial condition of a title insurer doing business under
2 this chapter, the general provisions of the laws regulating the business of insurance requiring the
3 establishment of reserves sufficient to cover all known and unknown liabilities including allocated
4 and unallocated loss adjustment expense, shall apply; except that, a title insurer shall establish and
5 maintain:

6 (1) (a) A known claim reserve in an amount estimated to be sufficient to cover all unpaid
7 losses, claims, and allocated loss adjustment expenses arising under title insurance policies for
8 which the title insurer may be liable, and for which the insurer has discovered or received notice
9 by or on behalf of the insured or escrow or security depositor;

10 (b) Upon receiving notice from or on behalf of the insured of a title defect in or lien or
11 adverse claim against the title of the insured that may result in a loss or cause expense to be
12 incurred in the proper disposition of the claim, the title insurer shall determine the amount to be
13 added to the reserve, which amount shall reflect a careful estimate of the loss or loss expense
14 likely to result by reason of the claim;

15 (c) Reserves required under this section may be revised from time to time and shall be
16 redetermined at least once each year;

17 (2) A statutory or unearned premium reserve established and maintained as follows:

18 (a) A domestic title insurer shall establish and maintain an unearned premium reserve
19 computed in accordance with this section, and all sums attributed to such reserve shall at all times
20 and for all purposes be considered and constitute unearned portions of the original premiums.
21 This reserve shall be reported as a liability of the title insurer in its financial statements;

22 (b) The unearned premium reserve shall be maintained by the title insurer for the
23 protection of holders of title insurance policies. Except as provided in this section, assets equal in
24 value to the reserve are not subject to distribution among creditors or stockholders of the title
25 insurer until all claims of policyholders or claims under reinsurance contracts have been paid in
26 full, and all liability on the policies or reinsurance contracts has been paid in full and discharged
27 or lawfully reinsured;

28 (c) The unearned premium reserve shall consist of:

29 a. The amount of the unearned premium reserve on January 1, 2008;

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1 b. A sum equal to fifteen cents for each one thousand dollars of net retained liability under
2 each title insurance policy, excluding mortgagee's policies simultaneously issued with owner's
3 policies or owner's leasehold policies of the same or greater amount, on a single risk written on
4 properties located in this state and issued after January 1, 2008; and

5 c. Unearned premium for closing protection letters;

6 (d) Amounts placed in the unearned premium reserve in any year in accordance with
7 paragraph (c) of this subdivision shall be deducted in determining the net profit of the title insurer
8 for that year;

9 (e) A title insurer shall release from the unearned premium reserve a sum equal to ten
10 percent of the amount added to the reserve during a calendar year on July first of each of the five
11 years following the year in which the sum was added, and shall release from the unearned
12 premium reserve a sum equal to three and one-third percent of the amount added to the reserve
13 during that year on each succeeding July first until the entire amount for that year has been
14 released. The amount of the unearned premium reserve or similar unearned premium reserve
15 maintained before January 1, 2008, shall be released in accordance with the law in effect
16 immediately before January 1, 2008;

17 (f) a. Each domestic and foreign title insurer shall file annually with the audited financial
18 report required under section 375.1032, RSMo, an actuarial certificate made by a member in good
19 standing of the American Academy of Actuaries, or by an actuary permitted to make such
20 certificate by the commissioner, superintendent or director of the department of insurance of the
21 state of incorporation of a foreign title insurer;

22 b. The actuarial certification shall conform to the annual statement instructions for title
23 insurers adopted by the National Association of Insurance Commissioners and shall include the
24 actuary's professional opinion of the insurer's reserves as of the date of the annual statement. The
25 reserves analyzed under this section shall include reserves for known claims, including adverse
26 developments on known claims, and reserves for incurred but not reported claims;

27 (g) Each domestic and foreign title insurer shall establish a supplemental reserve in the
28 amount by which the actuarially certified reserves exceed the total of the known claim reserve and
29 statutory premium reserve as set forth in the title insurer's annual financial report, subject to this

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1 subdivision.

2 2. A foreign or alien title insurer licensed to transact title insurance business in this state
3 shall maintain at least the same reserves on title insurance policies issued on properties located in
4 this state as are required of domestic title insurers, unless the laws of the jurisdiction of domicile
5 of the foreign or alien title insurer require a higher amount.

6 381.075. 1. Sections 375.570 to 375.750, RSMo, and sections 375.1150 to 375.1246,
7 RSMo, shall apply to all title insurers subject to this chapter, except as otherwise provided in this
8 section. In applying such sections, the court shall consider the unique aspects of title insurance
9 and shall have broad authority to fashion relief that provides for the maximum protection of the
10 title insurance policyholders.

11 2. Security and escrow funds held by or on behalf of the title insurer shall not become
12 general assets and shall be administered as secured claims as defined in section 375.1152, RSMo.

13 3. Title insurance policies that are in force at the time an order of liquidation is entered
14 shall not be canceled except upon a showing to the court of good cause by the liquidator. The
15 determination of good cause shall be within the discretion of the court. In making this
16 determination, the court shall consider the unique aspects of title insurance and all other relevant
17 circumstances.

18 4. The court may set appropriate dates that potential claimants must file their claims with
19 the liquidator. The court may set different dates for claims based upon the title insurance policy
20 than for all other claims. In setting dates, the court shall consider the unique aspects of title
21 insurance and all other relevant circumstances.

22 5. As of the date of the order of insolvency or liquidation, all premiums paid, due or to
23 become due under policies of the title insurers, shall be fully earned. It shall be the obligation of
24 title agencies, title agents, insureds, or representatives of the title insurer to pay fully earned
25 premium to the liquidator or rehabilitator.

26 381.085. 1. As used in sections 381.011 to 381.412, the terms "search", "search of the
27 public records", or "search of title", mean a search of those records established by the laws of this
28 state for the purpose of imparting constructive notice of matters relating to real property to
29 purchasers for value and without knowledge.

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1 2. A title insurer shall not deliver or issue for delivery or permit any of its authorized title
2 agencies or title agents to deliver in this state, any standard form providing coverage, in
3 connection with title insurance written, unless the standard form has been filed with the director
4 thirty days prior to use.

5 3. Forms covered by this section shall include:

6 (1) Title insurance policies, including standard form endorsements;

7 (2) Title insurance commitments issued prior to the issuance of a title insurance policy;
8 and

9 (3) Closing or settlement protection letters.

10 4. Any term or condition related to an insurance coverage provided by a title insurance
11 policy or any exception to the coverage, except exceptions ascertained from, or affirmative
12 coverages offered as a result of, a search and examination of records relating to a title or
13 inspection or survey of a property to be insured, may only be included in the policy after the term,
14 condition or exception has been filed with the director as herein provided.

15 5. The director shall review such form, term, condition, or exception within thirty days. If
16 within this time the director believes the form, term, condition, or exception is not in compliance
17 with the insurance laws of this state or does not contain such words, phraseology, conditions, and
18 provisions which are specific, certain, and unambiguous and reasonably adequate to meet the
19 needed requirements of those insured under such policies, the director may schedule a hearing to
20 be held within sixty days and at such hearing receive evidence and suggestions of law on the
21 matter.

22 6. If the director determines after a hearing that a form, term, condition, or exception shall
23 be disapproved, the director shall issue an order disapproving the form, term, condition, or
24 exception in a record and with findings of fact and conclusions of law in accordance with the
25 provisions of chapter 536, RSMo. A final order may not be issued unless the director specifies
26 the provisions of law that have not been complied with or the words, phraseology, conditions, or
27 provisions which are not specific, certain and unambiguous and reasonably adequate to meet the
28 needed requirement of those insured under such policies. A final order of disapproval is subject
29 to judicial review under the provisions of chapter 536, RSMo. During the pending of any

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proceeding under this section, all such forms may be used, but this provision shall not deprive the director or department of any other enforcement power over such forms that may be otherwise provided by law.

7. The failure of the director to seek disapproval does not constitute an approval or endorsement of the form, term, condition, or exception by the director. It is unlawful to make any representation that the director has approved a form, term, condition, or exception filed under this section.

381.112. For purposes of the premium tax imposed by sections 148.320 and 148.340, RSMo, the premium income received by a title insurer shall mean the amount within the definition of "premium".

381.115. 1. It is unlawful for any person to transact the business of title insurance unless authorized as a title insurer, title agency or title agent;

2. It is unlawful for any person to transact business as:

(1) A title agency, unless the person is a licensed business entity insurance producer under subsection 2 of section 375.015, RSMo; or

(2) A title agent, unless the person is a licensed individual insurance producer under subsection 1 of section 375.015, RSMo, or is exempt from licensure under subsection 3 of this section.

3. A salaried employee of a title insurer, title agency, or title agent is exempt from licensure as a title agent if the employee does not materially perform or supervise others who perform any of the following:

(1) Sell, solicit, or negotiate a title insurance policy or closing protection letter;

(2) Calculate premiums for a title insurance policy or closing protection letter;

(3) Determine insurability;

(4) Establish, calculate, or negotiate title charges;

(5) Conduct title search or examinations;

(6) Execute title insurance policies, commitments, binders or endorsements; or

(7) Handle escrows, settlements, or closings.

4. It is unlawful for any title insurer to contract with any person to act in the capacity of a

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1 title agency or title agent with respect to risks located in this state unless the person is licensed as
2 required in this section.

3 5. The director shall adopt rules, regulations, or requirements relating to licensing and
4 practices of persons acting in the capacity of title agencies or agents. These persons may include
5 title agencies, title agents and employees of title insurers, or title agencies. Such rules,
6 regulations, or requirements shall, until at least January 1, 2010, permit either provisional
7 licensure or waiver of licensure for employees newly performing functions described in
8 subsection 3 of this section, while under the direct supervision of a licensed insurance producer
9 during the first six months of such employee's initial employment. This subsection is not intended
10 to require licensure of persons performing a clerical function under the direct supervision and
11 direction of a licensed insurance producer.

12 6. Every title agency licensed in this state shall:

13 (1) Exclude or eliminate the word insurer, insurance company, or underwriter from its
14 business name, unless the word agency is also included as part of the name; and

15 (2) Provide, in a timely fashion, each title insurer with which it places business, any
16 information the title insurer requests in order to comply with reporting requirements of the
17 director.

18 7. A title agency or title agent licensed in this state prior to the effective date of this
19 chapter shall have ninety days after the effective date of this chapter to comply with the
20 requirements of this section.

21 8. If the title insurer, title agency, or title agent delegates the title search to a third party,
22 such as an abstract company, the insurer, agency, or agent must first obtain proof that the third
23 party is operating in compliance with rules and regulations established by the director and the
24 third party shall provide the insurer, agency, or agent with access to and the right to copy all
25 accounts and records maintained by the third party with respect to business placed with the title
26 insurer. Proof from the third party may consist of a signed statement indicating compliance, and
27 shall be effective for a three-year period.

28 9. A violation of any provision under this section is a level three violation under section
29 374.049, RSMo.

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1 381.118. 1. Each title agency shall designate an individual as a qualified principal, who
2 as a condition of licensure, shall successfully pass an examination developed by the producer
3 advisory board established by section 375.019, RSMo, and approved by the director. Each title
4 agent shall successfully pass an examination developed by the producer advisory board and
5 approved by the director. Upon request by a title agency or agent and for good cause, the director,
6 by order, may waive the requirements of this subsection. The examination requirement in this
7 subsection shall be waived for all title agents and qualified principals who are licensed in this
8 state as of January 1, 2008.

9 2. Each title agent licensed to sell title insurance in this state, unless exempt under
10 subsection 8 of this section, shall successfully complete courses of study as required by this
11 section. Any person licensed to act as a title agent shall, during each two years, attend courses or
12 programs of instruction or attend seminars equivalent to a minimum of eight hours of instruction.
13 The initial such two-year period shall begin January 1, 2008.

14 3. Subject to approval by the director, the courses or programs of instruction which shall
15 be deemed to meet the director's standards for continuing educational requirements shall include,
16 but not be limited to, the following:

17 (1) A real property law or title insurance-related course taught by an accredited college or
18 university or qualified instructor who has taught a course of real property or title insurance law at
19 such institution;

20 (2) A course or program of instruction or seminar approved by the director developed or
21 sponsored by any authorized insurer, recognized agents' association, title insurance trade
22 association, or approved private provider. A local agents' group may also be approved if the
23 instructor receives no compensation for services;

24 (3) Courses approved for continuing legal education credit by the Missouri Bar.

25 4. A person teaching any approved course of instruction or lecturing at any approved
26 seminar without compensation shall qualify for one and one-half times the number of classroom
27 hours as would be granted to a person taking and successfully completing such course, seminar or
28 program, but the credit may be credited no more than once a year.

29 5. Excess classroom hours accumulated during any two-year period may be carried

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forward to the two-year period immediately following the two-year period in which the course, program, or seminar was held.

6. For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for reasons including, but not limited to:

(1) Serious physical injury or illness;

(2) Active duty in the armed services for an extended period of time;

(3) Residence outside the United States; or

(4) Licensee is at least seventy years of age and is currently licensed as a title agent.

7. Every person subject to the provisions of this section shall furnish in a form satisfactory to the director, written certification as to the courses, programs, or seminars of instruction taken and successfully completed by such person.

8. The provisions of this section shall not apply to those natural persons holding or applying for a license to act as a title agent in Missouri who reside in a state that has enacted and implemented a mandatory continuing education law or regulation pertaining to title agents. However, those natural persons holding or applying for a Missouri agent license who reside in states which have no mandatory continuing education law or regulations shall be subject to all the provisions of this section to the same extent as resident Missouri title agents.

9. Rules necessary to implement and administer this section shall be promulgated by the director, including, but not limited to, rules regarding the following:

(1) The producer advisory board established by section 375.019, RSMo, shall be utilized by the director to assist the director in determining acceptable content of courses, programs and seminars to include classroom equivalency;

(2) Every applicant seeking approval by the director of a continuing education course under this section shall pay to the director a filing fee of fifty dollars per course, except that such total fee shall not exceed two hundred fifty dollars per year for any single applicant. Fees shall be

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1 waived for local agents' groups if the instructor receives no compensation for services. Such fee
2 shall accompany any application form required by the director. Courses shall be approved for a
3 period of no more than one year. Applicants holding courses intended to be offered for a longer
4 period must reapply for approval.

5 10. All funds received under the provisions of this section shall be transmitted by the
6 director to the department of revenue for deposit in the state treasury to the credit of the insurance
7 dedicated fund. All expenditures required by this section shall be paid from funds appropriated
8 from the insurance dedicated fund by the general assembly.

9 11. When a title agent pays his or her biennial renewal fee, such agent shall also furnish
10 the written certification required by this section.

11 12. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is
12 created pursuant to the authority delegated in this section shall become effective only if it
13 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
14 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the
15 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
16 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
17 grant of rulemaking authority and any rule proposed or adopted after January 1, 2008, shall be
18 invalid and void.

19 381.122. The director may during normal business hours examine, audit and inspect any
20 and all books and records maintained by a title insurer, title agency, or title agent under this
21 chapter.

22 381.161. 1. No producer or other person, except the person paying the premium for the
23 title insurance, shall require, directly or indirectly, or through any trustee, director, officer, agent,
24 employee, or affiliate, as a condition, agreement, or understanding to selling or furnishing any
25 other person any loan, or extension thereof, credit, sale, property, contract, lease or service, that
26 such other person shall place, any contract of title insurance of any kind through any particular
27 title agent, agency, or title insurer. No title agent, agency, or title insurer shall knowingly
28 participate in any such prohibited plan or transaction. No person shall fix a price charged for such
29 thing or service, or discount from or rebate upon price, on the condition, agreement, or

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1 understanding that any title insurance is to be obtained through a particular agent, agency, or title
2 insurer.

3 2. [Any person who violates the provisions of this section, or any title insurer, title agent,
4 or agency who accepts an order for title insurance knowing that it is in violation of the provision
5 of this section shall, in addition to any other action which may be taken by the director, be subject
6 to a fine in an amount equal to five times the premium for the title insurance.] A violation of any
7 provision under this section is a level three violation under section 374.049, RSMo.

8 381.410. As used in this section and section 381.412, the following terms mean:

9 (1) "Cashier's check", a check, however labeled, drawn on the financial institution, which
10 is signed only by an officer or employee of such institution, is a direct obligation of such
11 institution, and is provided to a customer of such institution or acquired from such institution for
12 remittance purposes;

13 (2) "Certified funds", United States currency, funds conveyed by a cashier's check,
14 certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers,
15 including written advice from a financial institution that collected funds have been credited to the
16 settlement agent's account;

17 (3) "Director", the director of the department of insurance, financial and professional
18 regulation, unless the settlement agent's primary regulator is the division of finance. When the
19 settlement agent is regulated by such division, that division shall have jurisdiction over this
20 section and section 381.412;

21 (4) "Financial institution":

22 (a) A person or entity doing business under the laws of this state or the United States
23 relating to banks, trust companies, savings and loan associations, credit unions, commercial and
24 consumer finance companies, industrial loan companies, insurance companies, small business
25 investment corporations licensed under the Small Business Investment Act of 1958, 15 U.S.C.
26 Section 661, et seq., as amended, or real estate investment trusts as defined in 26 U.S.C. Section
27 856, as amended, or institutions constituting the Farm Credit System under the Farm Credit Act of
28 1971, 12 U.S.C. Section 2000, et seq., as amended; or

29 (b) A mortgage loan company or mortgage banker doing business under the laws of this

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1 state or the United States which is subject to licensing, supervision, or auditing by the Federal
2 National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United
3 States Veterans' Administration, or the Government National Mortgage Association, or the United
4 States Department of Housing and Urban Development, or a successor of any of the foregoing
5 agencies or entities, as an approved seller or servicer, if their principal place of business is in
6 Missouri or a state which is contiguous to Missouri;

7 (5) "Settlement agent", a person, corporation, partnership, or other business organization
8 which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of
9 closing a sale of an interest in real estate located within the state of Missouri, and is not a financial
10 institution, or a member in good standing of the Missouri Bar, or a person licensed under chapter
11 339, RSMo.

12 381.412. 1. A settlement agent who accepts funds for closing a sale of an interest in real
13 estate shall require a buyer, seller, or lender who is not a financial institution to convey such funds
14 to the settlement agent as certified funds. A check shall be exempt from the provisions of this
15 section if drawn on:

16 (1) An escrow account of a licensed real estate broker, as regulated and described in
17 section 339.105, RSMo; or

18 (2) An escrow account of a title insurer or title insurance agency licensed to do business in
19 Missouri; or

20 (3) An agency of the United States of America, the state of Missouri, or any county or
21 municipality of the state of Missouri; or

22 (4) An account by a financial institution.

23 2. It is unlawful for any title insurer, title agency, or title agent, as defined in section
24 381.009, to make any payment, disbursement or withdrawal from an escrow account which it
25 maintains as a depository of funds received from the public for the settlement of real estate
26 transactions unless a corresponding deposit of funds was made to the escrow account for the
27 benefit of the payee or payees:

28 (1) At least ten days prior to such payment, disbursement, or withdrawal; or

29 (2) Which consisted of certified funds; or

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1 (3) Consisted of a check made exempt from this section by the provisions of subsection 1
2 of this section.

3 3. A violation of any provision of this section is a level two violation under section
4 374.049, RSMo."; and

7 Further amend said bill, Page 58, Section 409.950, by inserting after all of said section the
8 following:

9 "Section B. The repeal and enactment of Sections 381.003 through 381.412 of Section A of this
10 act is effective January 1, 2008.

12 [381.003. 1. Sections 381.003 to 381.125 shall be known and may be cited as the "Missouri Title
13 Insurance Act".

14 2. Sections 381.009 to 381.048 shall apply to all persons engaged in the business
15 of title insurance in this state. Sections 381.052 to 381.112 shall apply to all title
16 insurers engaged in the business of title insurance in this state. Sections 381.115 to
17 381.125 shall apply to all title agencies engaged in the business of title insurance in
18 this state.

19 3. Except as otherwise expressly provided in this chapter and except where the
20 context otherwise requires, all provisions of the insurance code applying to
21 insurance and insurance companies generally shall apply to title insurance, title
22 insurers and title agents.]

24 [381.009. As used in this chapter, the following terms mean:

25 (1) "Abstract of title" or "abstract", a written history, synopsis or summary of the
26 recorded instruments affecting the title to real property;

27 (2) "Affiliate", a specific person that directly, or indirectly through one or more
28 intermediaries, controls, or is controlled by, or is under common control with, the
29 person specified;

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1 (3) "Affiliated business", any portion of a title insurance agency's business written
2 in this state that was referred to it by a producer of title insurance business or by an
3 associate of the producer, where the producer or associate, or both, have a financial
4 interest in the title agency;

5 (4) "Associate", any:

6 (a) Business organized for profit in which a producer of title business is a director,
7 officer, partner, employee or an owner of a financial interest;

8 (b) Employee of a producer of title business;

9 (c) Franchisor or franchisee of a producer of title business;

10 (d) Spouse, parent or child of a producer of title insurance business who is a
11 natural person;

12 (e) Person, other than a natural person, that controls, is controlled by, or is under
13 common control with, a producer of title business;

14 (f) Person with whom a producer of title insurance business or any associate of the
15 producer has an agreement, arrangement or understanding, or pursues a course of
16 conduct, the purpose or effect of which is to provide financial benefits to that
17 producer or associate for the referral of business;

18 (5) "Bona fide employee of the title insurer", an individual who devotes
19 substantially all of his or her time to performing services on behalf of a title insurer
20 and whose compensation for those services is in the form of salary or its equivalent
21 paid by the title insurer;

22 (6) "Control", including the terms "controlling", "controlled by" and "under
23 common control with", the possession, direct or indirect, of the power to direct or
24 cause the direction of the management and policies of a person, whether through
25 the ownership of voting securities, by contract other than a commercial contract for
26 goods or nonmanagement services, or otherwise, unless the power is the result of
27 an official position or corporate office held by the person. Control shall be
28 presumed to exist if a person, directly or indirectly, owns, controls, holds with the
29 power to vote or holds proxies representing ten percent or more of the voting

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1 securities of another person. This presumption may be rebutted by showing that
2 control does not exist in fact. The director may determine, after furnishing all
3 persons in interest notice and opportunity to be heard and making specific findings
4 of fact to support the determination, that control exists in fact, notwithstanding the
5 absence of a presumption to that effect;

6 (7) "County" or "counties" includes any city not within a county;

7 (8) "Direct operations", that portion of a title insurer's operations which are
8 attributable to business written by a bona fide employee;

9 (9) "Director", the director of the department of insurance, or the director's
10 representatives;

11 (10) "Escrow", written instruments, money or other items deposited by one party
12 with a depository, escrow agent or escrowee for delivery to another party upon the
13 performance of a specified condition or the happening of a certain event;

14 (11) "Escrow, settlement or closing fee", the consideration for supervising or
15 handling the actual execution, delivery or recording of transfer and lien documents
16 and for disbursing funds;

17 (12) "Financial interest", a direct or indirect legal or beneficial interest, where the
18 holder is or will be entitled to five percent or more of the net profits or net worth of
19 the entity in which the interest is held;

20 (13) "Foreign title insurer", any title insurer incorporated or organized pursuant to
21 the laws of any other state of the United States, the District of Columbia, or any
22 other jurisdiction of the United States;

23 (14) "Geographically indexed or retrievable", a system of keeping recorded
24 documents which includes as a component a method for discovery of the
25 documents by:

26 (a) Searching an index arranged according to the description of the affected land;
27 or

28 (b) An electronic search by description of the affected land;

29 (15) "Net retained liability", the total liability retained by a title insurer for a single

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1 risk, after taking into account any ceded liability and collateral, acceptable to the
2 director, and maintained by the insurer;

3 (16) "Non-United States title insurer", any title insurer incorporated or organized
4 pursuant to the laws of any foreign nation or any province or territory;

5 (17) "Premium", the consideration paid by or on behalf of the insured for the
6 issuance of a title insurance policy or any endorsement or special coverage. It does
7 not include consideration paid for settlement or escrow services or
8 noninsurance-related information services;

9 (18) "Producer", any person, including any officer, director or owner of five
10 percent or more of the equity or capital of any person, engaged in this state in the
11 trade, business, occupation or profession of:

12 (a) Buying or selling interests in real property;

13 (b) Making loans secured by interests in real property; or

14 (c) Acting as broker, agent, representative or attorney of a person who buys or
15 sells any interest in real property or who lends or borrows money with the interest
16 as security;

17 (19) "Qualified depository institution", an institution that is:

18 (a) Organized or, in the case of a United States branch or agency office of a
19 foreign banking organization, licensed pursuant to the laws of the United States or
20 any state and has been granted authority to operate with fiduciary powers;

21 (b) Regulated, supervised and examined by federal or state authorities having
22 regulatory authority over banks and trust companies;

23 (c) Insured by the appropriate federal entity; and

24 (d) Qualified under any
25 additional rules established by the director;

26 (20) "Referral", the directing or the exercising of any power or influence over the
27 direction of title insurance business, whether or not the consent or approval of any
28 other person is sought or obtained with respect to the referral;

29 (21) "Search", "search of the public records" or "search of title", a search of those

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1 records established by the laws of this state for the purpose of imparting
2 constructive notice of matters relating to real property to purchasers for value and
3 without knowledge;

4 (22) "Security" or "security deposit", funds or other property received by the title
5 insurer as collateral to secure an indemnitor's obligation under an indemnity
6 agreement pursuant to which the insurer is granted a perfected security interest in
7 the collateral in exchange for agreeing to provide coverage in a title insurance
8 policy for a specific title exception to coverage;

9 (23) "Subsidiary", an affiliate controlled by a person directly or indirectly through
10 one or more intermediaries;

11 (24) "Title agency" means an authorized person who issues title insurance on
12 behalf of a title insurer. An attorney licensed to practice law in this state who
13 issues title insurance as a part of his or her law practice, but does not maintain or
14 operate a title insurance business separate from such law practice is not a title
15 agency;

16 (25) "Title agent" or "agent", an attorney licensed to practice law in this state who
17 issues title insurance as part of his or her law practice, but who is not affiliated
18 with or acting on behalf of a title agency, or an authorized person who, on behalf of
19 a title agency or on behalf of a title agent not affiliated with a title agency, performs
20 one or more of the following acts in conjunction with the issuance of a title
21 insurance commitment or policy:

22 (a) Determines insurability, based upon a review of a search of title;

23 (b) Performs searches;

24 (c) Handles escrows, settlements or closings; or

25 (d) Solicits or negotiates title insurance business;

26 (26) "Title insurance business" or "business of title insurance":

27 (a) Issuing as insurer or offering to issue as insurer a title insurance policy;

28 (b) Transacting or proposing to transact by a title insurer any of the following
29 activities when conducted or performed in contemplation of and in conjunction

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1 with the issuance of a title insurance policy:

2 a. Soliciting or negotiating the issuance of a title insurance policy;

3 b. Guaranteeing, warranting or otherwise insuring the correctness of title searches

4 for all instruments affecting titles to real property, any interest in real property,

5 cooperative units and proprietary leases and for all liens or charges affecting the

6 same;

7 c. Handling of escrows, settlements or closings;

8 d. Executing title insurance policies;

9 e. Effecting contracts of reinsurance; or

10 f. Abstracting, searching or examining titles;

11 (c) Guaranteeing, warranting or insuring searches or examinations of title to real

12 property or any interest in real property;

13 (d) Guaranteeing or warranting the status of title as to ownership of or liens on real

14 property by any person other than the principals to the transaction;

15 (e) Promising to purchase or repurchase for consideration an indebtedness because

16 of a title defect, whether or not involving a transfer of risk to a third person; or

17 (f) Promising to indemnify the holder of a mortgage or deed of trust against loss

18 from the failure of the borrower to pay the mortgage or deed of trust when due if

19 the property fails to yield sufficient proceeds upon foreclosure to satisfy the debt,

20 when one or both of the following conditions exist:

21 a. The security has been impaired by the discovery of a previously unknown

22 property interest in favor of one who is not liable for the payment of the mortgage

23 or deed of trust; or

24 b. Perfection of the position of the mortgage or deed of trust which was assured to

25 exist cannot be obtained, notwithstanding timely recordation with the recorder of

26 deeds of the county in which the property is located; or

27 (g) Doing or proposing to do any business substantially equivalent to any of the

28 activities listed in this subdivision in a manner designed to evade the provisions of

29 this chapter;

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1 (27) "Title insurance commitment" or "commitment", a preliminary report,
2 commitment or binder issued prior to the issuance of a title insurance policy
3 containing the terms, conditions, exceptions and other matters incorporated by
4 reference under which the title insurer is willing to issue its title insurance policy.

5 A title insurance commitment is not an abstract of title;

6 (28) "Title insurance policy" or "policy", a contract insuring or indemnifying
7 owners of, or other persons lawfully interested in, real property or any interest in
8 real property, against loss or damage arising from any or all of the following
9 conditions existing on or before the policy date and not excepted or excluded:

10 (a) Title to the estate or interest in land being otherwise than as stated in the
11 policy;

12 (b) Defects in or liens or encumbrances on the insured title;

13 (c) Unmarketability of the insured title;

14 (d) Lack of legal right of access to the land;

15 (e) Invalidity or unenforceability of the lien of an insured mortgage;

16 (f) The priority of a lien or encumbrance over the lien of any insured mortgage;

17 (g) The lack of priority of the lien of an insured mortgage over a statutory lien for
18 services, labor or material;

19 (h) The invalidity or unenforceability of an assignment of the insured mortgage; or

20 (i) Rights or claims relating to the use of or title to the land;

21 (29) "Title insurer" or "insurer", a company organized pursuant to laws of this
22 state for the purpose of transacting the business of title insurance and any foreign
23 or non-United States title insurer licensed in this state to transact the business of
24 title insurance;

25 (30) "Title plant", a set of records encompassing at least the most recent forty-five
26 years, consisting of documents, maps, surveys or entries affecting title to real
27 property or any interest in or encumbrance on the property, which have been filed
28 or recorded in the jurisdiction for which the title plant is established or maintained.

29 The records in the title plant shall be geographically indexed or retrievable as to

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1 those records containing a legal description of affected land, and otherwise by
2 name of affected person;
3 (31) "Underwrite", the authority to accept or reject risk on behalf of the title
4 insurer.]

5
6 [381.011. 1. Sections 381.011 to 381.241 shall be known and may be cited as the
7 "Missouri Title Insurance Act".

8 2. The purpose of sections 381.011 to 381.241 is to provide the state of
9 Missouri with a comprehensive body of law for the effective regulation and
10 supervision of title insurance business transacted within this state in response to the
11 McCarran-Ferguson Act, Sections 1011-1015, Title 15, United States Code.]

12
13 [381.015. 1. When a title insurance commitment issued by a title insurer, title
14 agency or title agent includes an offer to issue an owner's policy covering the resale
15 of owner-occupied residential property, the commitment shall incorporate the
16 following statement in bold type:

17 "Please read the exceptions and the terms shown or referred to herein carefully.
18 The exceptions are meant to provide you with notice of matters which are not
19 covered under the terms of the title insurance policy and should be carefully
20 considered."

21 2. A title insurer, title agency or title agent issuing a lender's title insurance policy
22 in conjunction with a mortgage loan made simultaneously with the purchase of all
23 or part of the real estate securing the loan, where no owner's title insurance policy
24 has been requested, shall give written notice, on a form prescribed or approved by
25 the director, to the purchaser-mortgagor at the time the commitment is prepared.
26 The notice shall explain that a lender's title insurance policy is to be issued
27 protecting the mortgage-lender, and that the policy does not provide title insurance
28 protection to the purchaser-mortgagor as the owner of the property being
29 purchased. The notice shall explain what a title policy insures against and what

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possible exposures exist for the purchaser- mortgagor that could be insured against through the purchase of an owner's policy. The notice shall also explain that the purchaser-mortgagor may obtain an owner's title insurance policy protecting the property owner at a specified cost or approximate cost, if the proposed coverages are or amount of insurance is not then known. A copy of the notice, signed by the purchaser-mortgagor, shall be retained in the relevant underwriting file at least fifteen years after the effective date of the policy.

3. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.]

[381.018. 1. The title insurer shall not allow the issuance of its commitments or policies by a title agency or title agent not affiliated with a title agency unless there is in force a written contract between the parties which sets forth the responsibilities of each party or, where both parties share responsibility for particular functions, specifies the division of responsibilities.

2. For each title agency or title agent not affiliated with a title agency under contract with the insurer, the title insurer shall have on file a statement of financial condition, of each title agency or title agent as of the end of the previous calendar or fiscal year setting forth an income statement of business done during the preceding year and a balance sheet showing the condition of its affairs as of the close of the prior year, certified by the agency or agent as being a true and accurate representation of the agency's or agent's financial condition. The statement shall be filed with the insurer no later than the date the agency's or agent's federal income tax return for the same year is filed. Attorneys actively engaged in the practice of law, in addition to that related to title insurance business, are exempt from the requirements of this subsection.

3. The title insurer shall conduct reviews of the underwriting, claims and escrow practices of its agencies and agents which shall include a review of the agency's or agent's policy blank inventory and processing operations. If any such title agency

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1 or title agent does not maintain separate bank or trust accounts for each title insurer
2 it represents, the title insurer shall verify that the funds held on its behalf are
3 reasonably ascertainable from the books of account and records of the title agency
4 or title agent not affiliated with a title agency. The title insurer shall conduct a
5 review of each of its agencies and agents at least triennially commencing January
6 first of the year first following January 1, 2001.

7 4. Within thirty days of executing or terminating a contract with a title agency or
8 title agent not affiliated with a title agency, the insurer shall provide notification of
9 the appointment or termination and the reason for termination to the director.

10 Notices of appointment of a title agency or title agent shall be made on a form
11 promulgated by the director.

12 5. The title insurer shall maintain an inventory of all policy numbers allocated to
13 each title agency or title agent not affiliated with a title agency.

14 6. The title insurer shall have on file proof that the title agency or title agent is
15 licensed by this state.

16 7. The title insurer shall establish the underwriting guidelines and, where
17 applicable, limitations on title claims settlement authority to be incorporated into
18 contracts with its title agencies and title agents not affiliated with a title agency.

19 8. Each violation of any provision of this section is a class B violation as that term
20 is defined in section 381.045.]

21
22 [381.021. 1. Sections 381.011 to 381.241 shall apply to all persons engaged in the
23 business of title insurance in this state.

24 2. Except as otherwise expressly provided in sections 381.011 to 381.241, and
25 except where the context otherwise requires, all provisions of the insurance laws of
26 this state applying to insurance and insurance companies generally shall apply to
27 title insurance and title insurance companies. No law of this state enacted after
28 September 28, 1987, that is inconsistent with the provisions of such sections shall
29 be applicable to the business of title insurance unless such law specifically states

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1 that it is to be applicable to the business of title insurance.

2 3. Nothing in sections 381.011 to 381.241 shall be construed to authorize the
3 practice of law by any person who is not duly admitted to practice law in this state
4 nor shall it be construed to authorize the director to regulate the practice of law or
5 the sale of real estate.]

6
7 [381.022. 1. A title insurer, title agency or title agent not affiliated with a title
8 agency may operate as an escrow, security, settlement or closing agent, provided
9 that:

10 (1) All funds deposited with the title insurer, title agency or title agent not
11 affiliated with a title agency in connection with any escrow, settlement, closing or
12 security deposit shall be submitted for collection to or deposited in a separate
13 fiduciary trust account or accounts in a qualified depository institution no later than
14 the close of the next business day after receipt, in accordance with the following
15 requirements:

16 (a) The funds shall be the property of the person or persons entitled to them under
17 the provisions of the escrow, settlement, security deposit or closing agreement and
18 shall be segregated for each depository by escrow, settlement, security deposit or
19 closing in the records of the title insurer, title agency or title agent not affiliated
20 with a title agency, in a manner that permits the funds to be identified on an
21 individual basis and in accordance with the terms of the individual instructions or
22 agreements under which the funds were accepted; and

23 (b) The funds shall be applied only in accordance with the terms of the individual
24 instructions or agreements under which the funds were accepted;

25 (2) Funds held in an escrow account shall be disbursed only pursuant to a written
26 instruction or agreement specifying under what conditions and to whom such funds
27 may be disbursed or pursuant to an order of a court of competent jurisdiction;

28 (3) Funds held in a security deposit account shall be disbursed only pursuant to a
29 written agreement specifying:

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- 1 (a) What actions the indemnitor shall take to satisfy his or her obligation under the
2 agreement;
- 3 (b) The duties of the title insurer, title agency or title agent not affiliated with a
4 title agency with respect to disposition of the funds held, including a requirement
5 to maintain evidence of the disposition of the title exception before any balance
6 may be paid over to the depositing party or his or her designee; and
- 7 (c) Any other provisions the director may require;
- 8 (4) Any interest received on funds deposited in connection with any escrow,
9 settlement, security deposit or closing may be retained by the title insurer, title
10 agency or title agent not affiliated with a title agency as compensation for
11 administration of the escrow or security deposit, unless the instructions for the
12 funds or a governing statute provides otherwise;
- 13 (5) Each violation of this subsection is a class A violation as that term is defined
14 in section 381.045.
- 15 2. The title agency or title agent not affiliated with an agency shall cooperate with
16 its underwriters in the conduct by the underwriters of reviews of the agency's or
17 agent's escrow, settlement, closing and security deposit accounts. The title insurer
18 shall provide a copy of the report of each such review it performs to the director.
19 The director may promulgate rules setting forth the minimum threshold level at
20 which a review would be required, the standards thereof and the form of report
21 required.
- 22 3. If the title agency or title agent not affiliated with an agency is appointed by two
23 or more title insurers and maintains fiduciary trust accounts in connection with
24 providing escrow or closing settlement services, the title agency or title agent shall
25 allow each title insurer reasonable access to the accounts and any or all of the
26 supporting account information in order to ascertain the safety and security of the
27 funds held by the title agency or title agent.
- 28 4. (1) Nothing in this chapter shall be deemed to prohibit the recording of
29 documents prior to the time funds are available for disbursement with respect to a
-

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1 transaction in which a title insurer, title agency or title agent not affiliated with a
2 title agency is the settlement agent, provided all parties to whom payment will
3 become due upon such recording consent thereto in writing.

4 (2) The settlement agent shall record all deeds and security instruments for real
5 estate closings handled by it within three business days after completion of all
6 conditions precedent thereto.

7 (3) Each violation of this subsection is a class C violation as that term is defined in
8 section 381.045.]

9
10 [381.025. 1. A title insurer, title agency, title agent or other person shall not give
11 or receive, directly or indirectly, any consideration for the referral of title insurance
12 business or escrow or other service provided by a title insurer, title agency or title
13 agent. Each violation of this subsection is a class A violation as that term is
14 defined in section 381.045.

15 2. Any title insurer, title agency or title agent doing business in the same county as
16 a title insurer, title agency or title agent who may be in violation of the prohibitions
17 or limitations of this section shall have standing to seek injunctive relief against the
18 violating title insurer, title agency or title agent in the event the department
19 declines or fails to enforce this section within forty-five days following receipt of
20 written notice of such violation. In any action pursuant to this subsection, the court
21 may award to the successful party the court costs of the action together with
22 reasonable attorney fees.]

23
24 [381.028. No title insurer, title agency or title agent shall participate in any
25 transaction in which it knows that a producer or other person requires, directly or
26 indirectly, or through any trustee, director, officer, agent, employee or affiliate, as a
27 condition, agreement or understanding to selling or furnishing any other person a
28 loan, or loan extension, credit, sale, property, contract, lease or service, that the
29 other person shall place a title insurance policy of any kind with the title insurer or

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1 through a particular title agency or agent. Each violation of this section is a class A
2 violation as that term is defined in section 381.045.]
3
4

5 [381.032. 1. No title insurer, may charge any rates regulated by the state after
6 January 1, 2001, except in accordance with the premium rate schedule and manual
7 filed with and approved by the director in accordance with applicable statutes and
8 regulations governing rate filings. Premium rate schedules in effect prior to
9 January 1, 2001, may be used until new rate schedules have been approved by the
10 director. Title insurers shall file their premium rate schedules within thirty days
11 after January 1, 2001. Each violation of this subsection is a class C violation as
12 that term is defined in section 381.045. Nothing in this section shall prevent an
13 agent not affiliated with an agency from charging for services that constitute the
14 practice of law at the customary fee charged by such person for legal services. To
15 the extent the premium fails to compensate the agent at such rate, the agent may
16 render an additional bill for such services on behalf of the agent's law practice or
17 law firm. The acceptance of any part of the premium by the law firm of said agent
18 shall not be a violation of any provision of the Missouri title insurance act or the
19 general insurance statutes, regulations or bulletins regarding payment of
20 commissions to nonlicensed entities.

21 2. The director may establish rules, including rules providing statistical plans, for
22 use by all title insurers, title agencies and title agents in the recording and reporting
23 of revenue, loss and expense experience in such form and detail as is necessary to
24 aid the director in the establishment of rates and fees.

25 3. The director may require that the information provided pursuant to this section
26 be verified by oath of the insurer's or agency's president or vice president or
27 secretary or actuary, as applicable. The director may further require that the
28 information required pursuant to this section be subject to an audit conducted at the
29 expense of the title insurer or title agency by an independent certified public

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1 accountant. The director shall have the authority to establish a minimum threshold
2 level at which an audit would be required.

3 4. Information filed with the director relating to the experience of a particular
4 agency shall be kept confidential unless the director finds it in the public interest to
5 disclose the information required of title insurers or title agencies pursuant to this
6 section. Prior to any such disclosure of confidential information, the director shall
7 provide notice and opportunity to be heard to the title insurers and title agencies
8 who would be affected thereby.]

9
10 [381.035. No title insurance company, title agency or title agent shall willfully
11 withhold information from, or knowingly give false or misleading information to
12 the director, or to any title insurance rating organization, of which the title
13 insurance company is a member or subscriber, which will affect the rates or fees
14 chargeable pursuant to this chapter. Each violation of this section is a class A
15 violation as that term is defined in section 381.045.]

16
17 [381.038. 1. Evidence of the examination of title and determination of insurability
18 generated by a title insurer engaged in direct operations, title agency or title agent
19 shall be preserved and maintained by such insurer, agency or agent for as long as
20 appropriate to the circumstances but in no event less than fifteen years after the
21 title insurance policy has been issued.

22 2. Records relating to escrow and security deposits shall be preserved and retained
23 by a title insurer engaged in direct operations, title agency and title agent for as
24 long as appropriate to the circumstances but in no event less than five years after
25 the escrow or security deposit account has been closed.

26 3. This section shall not apply to a title insurer acting as coinsurer if one of the
27 other coinsurers has complied with this section.

28 4. Each violation of any provision of this section is a class C violation as that term
29 is defined in section 381.045.]

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1 [381.041. 1. No person other than a domestic, foreign, or alien title insurer
2 organized on the stock plan and duly licensed by the director shall transact title
3 insurance business as an insurer in this state.

4 2. Each title insurer may engage in the title insurance business in this state if
5 licensed to do so by the director and provide any other service related or incidental
6 to the sale and transfer or financing of property.

7 3. A title insurer shall maintain a minimum paid-in capital of not less than four
8 hundred thousand dollars and, in addition, paid-in initial surplus of at least four
9 hundred thousand dollars.]

10
11 [381.042. 1. The director may issue rules, regulations and orders necessary to
12 carry out the provisions of this chapter.

13 2. No rule or portion of a rule promulgated pursuant to the authority of this chapter
14 shall become effective unless it has been promulgated pursuant to the provisions of
15 chapter 536, RSMo.]

16
17 [381.045. 1. If the director determines that the title insurer or any other person has
18 violated this chapter, or any regulation or order promulgated thereunder, after
19 notice and opportunity to be heard, the director may order:

20 (1) For each violation a monetary penalty which shall take into account the harm
21 the violation caused or could have caused or potential harm to the public and
22 which shall not exceed:

23 (a) One thousand dollars per violation for a class A violation;

24 (b) Five hundred dollars per violation for a class B violation; and

25 (c) One hundred dollars per violation for a class C violation;

26 (2) Revocation or suspension of the title insurer's license; or

27 (3) Both monetary penalty and revocation or suspension.

28 2. Nothing contained in this section shall affect the right of the director to impose
29 any other penalties provided for in the insurance code.

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1 3. Nothing contained in this chapter is intended to or shall in any other manner
2 limit or restrict the rights of policyholders, claimants and creditors.]
3

4 [381.048. The director may bring an action in a court of competent jurisdiction to
5 enjoin violations of the Real Estate Settlement Procedures Act, 12 U.S.C. Section
6 2607, as amended.]
7

8 [381.051. 1. A title insurer, before issuing any title insurance policy covering
9 property located in this state, shall deposit with the director of the department of
10 insurance, hereinafter referred to as the director, a sum of four hundred thousand
11 dollars, which shall be held for the security and protection of the holders or
12 beneficiaries under its title insurance policies.

13 2. Assets deposited pursuant to this section may, with the approval of the
14 director, be exchanged from time to time for other assets that qualify under
15 subsection 3 of this section.

16 3. The depositing title insurer shall receive the income, interests, and dividends
17 on any assets deposited. The deposit required under this section may be made in
18 legal tender or in investments now or hereafter permitted to domestic life insurers
19 with regard to their capital, reserve and surplus. For capital and reserve deposits,
20 sums deposited pursuant to this section shall be valued at their market value.

21 4. A title insurer that has deposited assets pursuant to this section may, with the
22 approval of the director, withdraw any part of the assets so deposited. If any such
23 title insurer continues to engage in the business of title insurance, it shall not be
24 permitted to withdraw assets that would reduce the amount of its deposits below
25 the amount required by subsection 1 of this section.

26 5. In lieu of such a deposit maintained in this state, the director shall accept a
27 certificate or certificates in proper form of the public officer or officers having
28 general supervision of title insurers in its state of domicile to the effect that a
29 deposit or total deposits, in an equal or greater amount, in classes of investment

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1 authorized in such state, are being maintained for like purposes in public custody
2 or control pursuant to the laws of such state on behalf of the title insurer.

3 6. If sections 381.011 to 381.241 require a greater amount of capital and
4 surplus or deposits than that required of a title insurer prior to September 28, 1987,
5 such title insurer shall have three years after September 28, 1987, to comply with
6 any such increased requirement.

7 7. The provisions of sections 375.950 to 375.990, RSMo, shall apply to the
8 impairment of capital, liquidation, and rehabilitation of title insurers.]

9
10 [381.052. No person other than a domestic, foreign or non-United States title
11 insurer organized on the stock plan and duly licensed by the director shall transact
12 title insurance business as an insurer in this state.]

13
14 [381.055. Subject to the exceptions and restrictions contained in this chapter, a
15 title insurer shall have the power to:

16 (1) Do only title insurance business;

17 (2) Reinsure title insurance policies; and

18 (3) Perform ancillary activities, unless prohibited by the director, including

19 examining titles to real property and any interest in real property and procuring and
20 furnishing related information and information about relevant personal property, when not in
21 contemplation of, or in conjunction with, the issuance of a title insurance policy.]

22
23 [381.058. 1. No insurer that transacts any class, type or kind of business other
24 than title insurance shall be eligible for the issuance or renewal of a license to
25 transact the business of title insurance in this state nor shall title insurance be
26 transacted, underwritten or issued by any insurer transacting or licensed to transact
27 any other class, type or kind of business.

28 2. A title insurer shall not engage in the business of guaranteeing payment of the
29 principal or the interest of bonds or mortgages.

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1 3. (1) Notwithstanding subsection 1 of this section, and to the extent such
2 coverage is lawful within this state, a title insurer is expressly authorized to issue
3 closing or settlement protection to a proposed insured upon request if the title
4 insurer issues a commitment, binder or title insurance policy. Such closing or
5 settlement protection shall conform to the terms of coverage and form of
6 instrument as required by the director and may indemnify a proposed insured solely
7 against loss of settlement funds only because of the following acts of a title
8 insurer's named title agency or title agent:

9 (a) Theft of settlement funds; and

10 (b) Failure to comply with written closing instructions by the proposed insured
11 when agreed to by the title agency or title agent relating to title insurance coverage.

12
13 (2) The director may promulgate or approve a required charge for providing the
14 coverage.

15 (3) A title insurer shall not provide any other coverage which purports to
16 indemnify against improper acts or omissions of a person with regard to escrow,
17 settlement, or closing services.]

18
19 [381.061. 1. The net retained liability of a title insurer for a single risk on property
20 located in this state, whether assumed directly or as reinsurance, may not exceed
21 fifty percent of the sum of its total surplus to policyholders and unearned premium
22 reserve, less the admitted asset value assigned to title plants, as shown in the most
23 recent annual statement of the title insurer on file in the office of the director.

24 2. The director may waive the limitation of this section for a particular risk
25 upon application of the title insurer and for good cause shown.]

26
27 [381.062. Before being licensed to do an insurance business in this state, a title
28 insurer shall establish and maintain a minimum paid-in capital of not less than four
29 hundred thousand dollars and, in addition, paid-in initial surplus of at least four

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1 hundred thousand dollars.]

2
3 [381.065. 1. The net retained liability of a title insurer for a single risk in regard to
4 property located in this state, whether assumed directly or as reinsurance, shall not
5 exceed the aggregate of fifty percent of surplus as regards policyholders plus the
6 statutory premium reserve less the company's investment in title plants, all as
7 shown in the most recent annual statement of the insurer on file with the director.

8 2. For purposes of this chapter:

9 (1) A single risk shall be the insured amount of any title insurance policy, except
10 that, where two or more title insurance policies are issued simultaneously covering
11 different estates in the same real property, a single risk shall be the sum of the
12 insured amounts of all the title insurance policies; and

13 (2) A policy under which a claim payment reduces the amount of insurance under
14 one or more other title insurance policies shall be included in computing the single
15 risk sum only to the extent that its amount exceeds the aggregate amount of the
16 policy or policies whose amount of insurance is reduced.

17 3. A title insurer may obtain reinsurance for all or any part of its liability under its
18 title insurance policies or reinsurance agreements and may also reinsure title
19 insurance policies issued by other title insurers on single risks located in this state
20 or elsewhere. Reinsurance on policies issued on properties located in this state
21 may be obtained from any title insurers licensed to transact title insurance business
22 in this state, any other state, or the District of Columbia and which have a
23 combined capital and surplus of at least eight hundred thousand dollars.

24 4. The director may waive the limitation of this section for a particular risk upon
25 application of the title insurer and for good cause shown.]

26
27 [381.068. In determining the financial condition of a title insurer doing business
28 pursuant to this chapter, the general investment provisions of sections 376.300 to
29 376.305, RSMo, shall apply; except that, an investment in a title plant or plants in

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1 an amount equal to the actual cost shall be allowed as an admitted asset for title
2 insurers. The aggregate amount of the investment shall not exceed fifty percent of
3 surplus to policyholders, as shown on the most recent annual statement of the title
4 insurer on file with the director.]

5
6 [381.072. In determining the financial condition of a title insurer doing business
7 pursuant to this chapter, the general provisions of the insurance code requiring the
8 establishment of reserves sufficient to cover all known and unknown liabilities
9 including allocated and unallocated loss adjustment expense, shall apply; except
10 that, a title insurer shall establish and maintain:

11 (1) (a) A known claim reserve in an amount estimated to be sufficient to cover all
12 unpaid losses, claims and allocated loss adjustment expenses arising under title
13 insurance policies for which the title insurer may be liable, and for which the
14 insurer has discovered or received notice by or on behalf of the insured or escrow
15 or security depositor;

16 (b) Upon receiving notice from or on behalf of the insured of a title defect in or
17 lien or adverse claim against the title of the insured that may result in a loss or
18 cause expense to be incurred in the proper disposition of the claim, the title insurer
19 shall determine the amount to be added to the reserve, which amount shall reflect a
20 careful estimate of the loss or loss expense likely to result by reason of the claim;

21 (c) Reserves required pursuant to this section may be revised from time to time
22 and shall be redetermined at least once each year;

23 (2) A statutory or unearned premium reserve established and maintained as
24 follows:

25 (a) A domestic title insurer shall establish and maintain an unearned premium
26 reserve computed in accordance with this section, and all sums attributed to such
27 reserve shall at all times and for all purposes be considered and constitute unearned
28 portions of the original premiums. This reserve shall be reported as a liability of
29 the title insurer in its financial statements;

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(b) The unearned premium reserve shall be maintained by the title insurer for the protection of holders of title insurance policies. Except as provided in this section, assets equal in value to the reserve are not subject to distribution among creditors or stockholders of the title insurer until all claims of policyholders or claims under reinsurance contracts have been paid in full, and all liability on the policies or reinsurance contracts has been paid in full and discharged or lawfully reinsured;

(c) The unearned premium reserve shall consist of:

- a. The amount of the unearned premium reserve on January 1, 2001; and
- b. A sum equal to fifteen cents for each one thousand dollars of net retained liability under each title insurance policy, excluding mortgagee's policies simultaneously issued with owner's policies or owner's leasehold policies of the same or greater amount, on a single risk written on properties located in this state and issued after January 1, 2001;

(d) Amounts placed in the unearned premium reserve in any year in accordance with paragraph (c) of this subdivision shall be deducted in determining the net profit of the title insurer for that year;

(e) A title insurer shall release from the unearned premium reserve a sum equal to ten percent of the amount added to the reserve during a calendar year on July first of each of the five years following the year in which the sum was added, and shall release from the unearned premium reserve a sum equal to three and one-third percent of the amount added to the reserve during that year on each succeeding July first until the entire amount for that year has been released. The amount of the unearned premium reserve or similar unearned premium reserve maintained before January 1, 2001, shall be released in accordance with the law in effect immediately before January 1, 2001;

(f) a. Each domestic and foreign title insurer shall file annually with the audited financial report required pursuant to section 375.1032, RSMo, an actuarial certificate made by a member in good standing of the American Academy of Actuaries, or by an actuary permitted to make such certificate by the commissioner,

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1 superintendent or director of the department of insurance of the state of
2 incorporation of a foreign title insurer;

3 b. The actuarial certification shall conform to the annual statement instructions for
4 title insurers adopted by the National Association of Insurance Commissioners and
5 shall include the actuary's professional opinion of the insurer's reserves as of the
6 date of the annual statement. The reserves analyzed pursuant to this section shall
7 include reserves for known claims, including adverse developments on known
8 claims, and reserves for incurred but not reported claims;

9 (g) a. Each domestic and foreign title insurer shall establish a supplemental
10 reserve in the amount by which the actuarially certified reserves exceed the total of
11 the known claim reserve and statutory premium reserve as set forth in the title
12 insurer's annual financial report, subject to this subdivision;

13 b. The supplemental reserve required pursuant to this section shall be phased in as
14 follows:

15 i. Twenty-five percent of the otherwise applicable supplemental reserve is required
16 until December thirty-first of the year next following January 1, 2001;

17 ii. Fifty percent of the otherwise applicable supplemental reserve is required until
18 December thirty-first of the second year following January 1, 2001;

19 iii. Seventy-five percent of the otherwise applicable supplemental reserve is
20 required until December thirty-first of the third year following January 1, 2001;

21 iv. One hundred percent of the supplemental reserve is required after December
22 thirty-first of the fourth year following January 1, 2001.]

23
24 [381.075. 1. Sections 375.570 to 375.750, RSMo, and sections 375.1150 to
25 375.1246, RSMo, shall apply to all title insurers subject to the title insurance act,
26 except as otherwise provided in this section. In applying such sections, the court
27 shall consider the unique aspects of title insurance and shall have broad authority
28 to fashion relief that provides for the maximum protection of the title insurance
29 policyholders.

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1 2. Security and escrow funds held by or on behalf of the title insurer shall not
2 become general assets and shall be administered as secured claims as defined in
3 section 375.1152, RSMo.

4 3. Title insurance policies that are in force at the time an order of liquidation is
5 entered shall not be canceled except upon a showing to the court of good cause by
6 the liquidator. The determination of good cause shall be within the discretion of
7 the court. In making this determination, the court shall consider the unique aspects
8 of title insurance and all other relevant circumstances.

9 4. The court may set appropriate dates that potential claimants must file their
10 claims with the liquidator. The court may set different dates for claims based upon
11 the title insurance policy than for all other claims. In setting dates, the court shall
12 consider the unique aspects of title insurance and all other relevant circumstances.

13 5. As of the date of the order of insolvency or liquidation, all premiums paid, due
14 or to become due under policies of the title insurers, shall be fully earned. It shall
15 be the obligation of title agencies, title agents, insureds or representatives of the
16 title insurer to pay fully earned premium to the liquidator or rehabilitator.]

17
18 [381.078. A title insurer shall only declare or distribute a dividend to shareholders
19 with the prior written approval of the director, as would be permitted pursuant to
20 subdivision (1) of subsection 1 of section 382.210, RSMo.]

21
22 [381.081. 1. A domestic title insurer shall establish and maintain an unearned
23 premium reserve computed in accordance with this section, and all sums attributed
24 to such reserve shall at all times and for all purposes be considered and constitute
25 unearned portions of the original premiums. This reserve shall be reported as a
26 liability of the title insurer in its financial statements.

27 2. The unearned premium reserve shall be maintained by the title insurer for the
28 protection of holders of title insurance policies. Except as provided in this section,
29 assets equal in value to the reserve are not subject to distribution among creditors

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1 or stockholders of the title insurer until all claims of policyholders or claims under
2 reinsurance contracts have been paid in full, and all liability on the policies or
3 reinsurance contracts has been paid in full and discharged or lawfully reinsured.

4 3. A foreign or alien title insurer licensed to transact title insurance business in
5 this state shall maintain at least the same reserves on title insurance policies issued
6 on properties located in this state as are required of domestic title insurers, unless
7 the laws of the jurisdiction of domicile of the foreign or alien title insurer require a
8 higher amount.

9 4. The unearned premium reserve shall consist of:

10 (1) The amount of the unearned premium reserve on September 28, 1987; and

11 (2) A sum equal to fifteen cents for each one thousand dollars of net retained
12 liability under each title insurance policy, excluding mortgagee's policies
13 simultaneously issued with owner's policies or owner's leasehold policies of the
14 same or greater amount, on a single risk written on properties located in this state
15 and issued after September 28, 1987.

16 5. Amounts placed in the unearned premium reserve in any year in accordance
17 with subdivision (2) of subsection 4 of this section shall be deducted in
18 determining the net profit of the title insurer for that year.

19 6. A title insurer shall release from the unearned premium reserve a sum equal
20 to ten percent of the amount added to the reserve during a calendar year on July
21 first of each of the five years following the year in which the sum was added, and
22 shall release from the unearned premium reserve a sum equal to three and one-third
23 percent of the amount added to the reserve during that year on each succeeding
24 July first until the entire amount for that year has been released. The amount of the
25 unearned premium reserve or similar unearned premium reserve maintained before
26 September 28, 1987, shall be released in accordance with the law in effect
27 immediately before September 28, 1987.]

28
29 [381.085. 1. A title insurer or authorized rate service organization shall not

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1 deliver or issue for delivery or permit any of its authorized title agencies or title
2 agents to deliver in this state, any form, in connection with title insurance written,
3 unless it has been filed with the director and approved by the director or thirty days
4 have elapsed and it has not been disapproved as misleading or violative of public
5 policy. Each violation of this subsection is a class C violation as that term is
6 defined in section 381.045.

7 2. Forms covered by this section shall include:

8 (1) Title insurance policies, including standard form endorsements; and

9 (2) Title insurance commitments issued prior to the issuance of a title insurance
10 policy.

11 3. After notice and opportunity to be heard are given to the insurer or rate service
12 organization which submitted a form for approval, the director may withdraw
13 approval of the form on finding that the use of the form is contrary to the legal
14 requirements applicable at the time of withdrawal. The effective date of
15 withdrawal of approval shall not be less than ninety days after notice of withdrawal
16 is given.

17 4. Any term or condition related to an insurance coverage provided by an
18 approved title insurance policy or any exception to the coverage, except those
19 ascertained from a search and examination of records relating to a title or
20 inspection or survey of a property to be insured, may only be included in the policy
21 after the term, condition or exception has been filed with the director and approved
22 as herein provided.]

23
24 [381.088. 1. A title insurer may satisfy its obligation to file premium rates, rating
25 manuals and forms as required by this chapter by becoming a member of, or a
26 subscriber to, a rate service organization, organized and licensed pursuant to the
27 provisions of this chapter, where the organization makes the filings, and by
28 authorizing the director in writing to accept the filings on the insurer's behalf.

29 2. Nothing in this chapter shall be construed as requiring any title insurer, title

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1 agency or title agent to become a member of, or a subscriber to, any rate service
2 organization. Nothing in this chapter shall be construed as prohibiting the filing of
3 deviations from rate service organization filings by any member or subscriber.]
4

5 [381.091. 1. If a domestic title insurer becomes insolvent, is in the process of
6 liquidation or dissolution, or is in the possession of the director:

7 (1) Such amount of the assets of such title insurer equal to the unearned
8 premium reserve then remaining may be used by or with the written approval of the
9 director to pay for reinsurance of the liability of such title insurer upon all
10 outstanding title insurance policies or reinsurance agreements to the extent to
11 which claims for losses by the holders thereof are not then pending. The balance
12 of assets, if any, equal to the unearned premium reserve, may then be transferred to
13 the general assets of the title insurer;

14 (2) The net assets of the unearned premium reserve shall be available to pay
15 claims for losses sustained by holders of title insurance policies then pending or
16 arising up to the time reinsurance is effected. If claims for losses exceed such
17 other assets of the title insurer, such claims, when established, shall be paid pro
18 rata out of the surplus assets attributable to the unearned premium reserve to the
19 extent of such surplus, if any.

20 2. If reinsurance is not obtained, assets equal to the unearned premium reserve
21 and assets constituting minimum capital, or so much as remains thereof after
22 outstanding claims have been paid, shall constitute a trust fund to be held and
23 invested by the director for twenty years, out of which claims of policyholders shall
24 be paid as they arise. The balance, if any, of the trust fund shall, at the expiration
25 of twenty years, revert to the general assets of the title insurer.]
26

27 [381.092. 1. Every title insurer that shall propose its own premium rates and every
28 title insurance rating organization shall propose premium rates that are not
29 excessive nor inadequate for the safety and soundness of any title insurer, which do

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1 not unfairly discriminate between risks in this state which involve essentially the
2 same exposure to loss and expense elements, and which shall give due
3 consideration to the following matters:

- 4 (1) The desirability for stability and responsiveness of rate structures;
5 (2) The necessity of assuring the financial solvency of title insurance companies in
6 periods of economic depression;
7 (3) The necessity for paying dividends on the capital stock of title insurance
8 companies sufficient to induce capital to be invested therein; and
9 (4) A reasonable level of profit for the insurer.

10 2. Every title insurer that shall propose its own rates and every title insurance
11 rating organization may adopt basic classifications of policies or contracts of title
12 insurance which shall be used as the basis for rates.]

13
14 [381.095. 1. If the director shall find in his review of rate filings that the filings
15 provide for, result in, or produce rates that are not unreasonably high, and are not
16 inadequate for the safeness and soundness of the insurer, and are not unfairly
17 discriminatory between risks in this state involving essentially the same hazards
18 and expense elements, the director shall approve such rates. Prior to such approval
19 the director may conduct a public hearing with respect to a rate filing. An approval
20 shall continue in effect until the director shall issue an order of disapproval
21 pursuant to the requirements and procedure provided for in subsections 2 and 3 of
22 this section.

23 2. Upon the review at any time by the director of a rate filing, the director shall,
24 before issuing an order of disapproval, hold a hearing upon not less than ten days'
25 written notice, specifying in reasonable detail the matters to be considered at such
26 hearing, to every title insurer and title insurance rating organization which made
27 such filing, and if, after such hearing, the director finds that such filing or a part
28 thereof does not meet the requirements of this chapter, the director shall issue an
29 order specifying in what respects the director finds that it so fails, and stating

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1 when, within a reasonable period thereafter, such filing or a part thereof shall be
2 deemed no longer effective. A title insurer or title insurance rating organization
3 shall have the right at any time to withdraw a filing or a part thereof, subject to the
4 provisions of section 381.102, in the case of deviation filing. Copies of the order
5 shall be sent to every title insurer and title insurance rating organization affected.
6 The order shall not affect any contract or policy made or issued prior to the
7 expiration of the period set forth in the order.

8 3. Any person or organization aggrieved with respect to any filing which is in
9 effect may make written application to the director for a hearing thereon. The title
10 insurance company or title insurance rating organization that made the filing shall
11 not be authorized to proceed pursuant to this subsection. Such application shall
12 specify in reasonable detail the grounds to be relied upon by the applicant. If the
13 director shall find that the application is made in good faith, that the applicant
14 would be so aggrieved if his or her grounds are established, and that such grounds
15 otherwise justify holding such a hearing, the director shall, within thirty days after
16 receipt of such application, hold a hearing upon not less than ten days' written
17 notice to the applicant and to every title insurance company and title insurance
18 rating organization which made such a filing. If, after such hearing, the director
19 finds that the filing or a part thereof does not meet the requirements of this chapter,
20 the director shall issue an order specifying in what respects the director finds that
21 such filing or a part thereof fails to meet the requirements of this chapter, stating
22 when within a reasonable period thereafter, such filing or a part thereof shall be
23 deemed no longer effective. Copies of such order shall be sent to the applicant and
24 to every such title insurer and title insurance rating organization. The order shall
25 not affect any contract or policy made or issued prior to the expiration of the period
26 set forth in the order.]

27
28 [381.098. 1. A corporation, an unincorporated association, a partnership or an
29 individual, whether located within or outside this state, may make application to

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1 the director for license as a rating organization for title insurers, and shall file
2 therewith:

3 (1) A copy of its constitution, its articles of agreement or association or its
4 certificate of incorporation, and of its bylaws, rules and regulations governing the
5 conduct of its business;

6 (2) A list of its members and subscribers;

7 (3) The name and address of a resident of this state upon whom notices or orders
8 of the director or process affecting such rating organization may be served; and

9 (4) A statement of its qualifications as a title insurance rating organization.

10 2. If the director finds that the applicant is competent, trustworthy and otherwise
11 qualified to act as a rating organization, and that its constitution, articles of
12 agreement or association or certificate of incorporation, and its bylaws, rules and
13 regulations governing the conduct of its business, conform to requirements of law,
14 the director shall issue a license authorizing the applicant to act as a rating
15 organization for title insurance. Licenses issued pursuant to this section shall
16 remain in effect for three years unless sooner suspended or revoked by the director
17 or withdrawn by the licensee. The fee for such license shall be one thousand five
18 hundred dollars. Licenses issued pursuant to this section may be suspended or
19 revoked by the director, after hearing upon notice, in the event the rating
20 organization ceases to meet the requirements of this subsection. Every rating
21 organization shall notify the director promptly of every change in:

22 (1) Its constitution, its articles of agreement or association or its certificate of
23 incorporation, and its bylaws, rules and regulations governing the conduct of its
24 business;

25 (2) Its list of members and subscribers; and

26 (3) The name and address of the resident of this state designated by it upon whom
27 notices or orders of the director or process affecting such rating organization may
28 be served.

29 3. Subject to rules and regulations which have been approved by the director as

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1 reasonable, each title insurance rating organization shall permit any title insurance
2 company not a member to be a subscriber to its rating services. Notices of
3 proposed changes in such rules and regulations shall be given to subscribers. Each
4 such rating organization shall furnish its rating services without discrimination to
5 its members and subscribers. The reasonableness of any rule or regulation in its
6 application to subscribers, or the refusal of any such rating organization to admit a
7 title insurance company as a subscriber, shall at the request of any subscriber or
8 any such title insurance company, be reviewed by the director at a hearing held
9 upon at least ten days' written notice to such rating organization and to such
10 subscriber. If the director finds that such rule or regulation is unreasonable in its
11 application to subscribers, the director shall order that such rule or regulation shall
12 not be applicable to subscribers. If the rating organization fails to grant or reject an
13 application of a title insurance company for subscribership within thirty days after
14 it was made, the title insurance company may request a review by the director as if
15 the application had been rejected. If the director finds that the title insurance
16 company has been refused admittance to the title insurance rating organization as a
17 subscriber without justification, the director shall order such rating organization to
18 admit the title insurance company as a subscriber. If the director finds that the
19 action of the title insurance rating organization was justified, the director shall
20 make an order affirming its action.]

21
22 [381.101. 1. All title insurers licensed in this state shall establish and maintain
23 reserves against unpaid losses and loss expenses.

24 2. Upon receiving notice from or on behalf of the insured of a title defect in or
25 lien or adverse claim against the title of the insured that may result in a loss or
26 cause expense to be incurred in the proper disposition of the claim, the title insurer
27 shall determine the amount to be added to the reserve, which amount shall reflect a
28 careful estimate of the loss or loss expense likely to result by reason of the claim.

29 3. Reserves required under this section may be revised from time to time and

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1 shall be redetermined at least once each year.]

2
3 [381.102. Every member of or subscriber to a title insurance rating organization
4 shall adhere to the filings made on its behalf by such organization, except that any
5 title insurance company which is a member of or subscriber to such a rating
6 organization may file with the director a uniform percentage of decrease or
7 increase to be applied to any or all elements of the fees produced by the rating
8 system so filed for a class of title insurance which is found by the director to be a
9 proper rating unit for the application of such uniform decrease or increase, or to be
10 applied to the rates for a particular area, or otherwise deviate from the rating plans,
11 policy forms or other matters which are the subject of filings pursuant to this
12 chapter. Such deviation filing shall specify the basis for the modification and shall
13 be accompanied by the data or historical pattern upon which the applicant relies. A
14 copy of the deviation filing and data shall be sent simultaneously to such rating
15 organization. Deviation filings shall be subject to the provisions of section
16 381.095.]

17
18 [381.105. 1. Any member of or subscriber to a title insurance rating organization
19 may appeal to the director from any action or decision of such rating organization
20 in approving or rejecting any proposed change in or addition to the filings of such
21 rating organization, and the director shall, after a hearing held upon not less than
22 ten days' written notice to the appellant and to such rating organization, issue an
23 order approving the action or decision of such rating organization or directing it to
24 give further consideration to such proposal and to take action or make a decision
25 upon it within thirty days. If such appeal is from the action or decision of the title
26 insurance rating organization in rejecting a proposed addition to its filings, the
27 director may, in the event the director finds that such action or decision was
28 unreasonable, issue an order directing the rating organization to make an addition
29 to its filings, on behalf of its members and subscribers, in a manner consistent with

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1 the director's findings, within a reasonable time after the issuance of such order. If
2 the appeal is from the action of the title insurance rating organization with regard
3 to a rate or a proposed change in or addition to its filings relating to the character
4 and extent of coverage, the director shall approve the action of the rating
5 organization or such modification thereof as shall have been suggested by the
6 appellant if either be made in accordance with this chapter.

7 2. The failure of a title insurance rating organization to take action or make a
8 decision within thirty days after submission to it of a proposal pursuant to this
9 section shall constitute a rejection of such proposal within the meaning of this
10 section. If such appeal is based upon the failure of the rating organization to make
11 a filing on behalf of such member or subscriber which is based on a system of
12 expense allocation which differs from the system of expense allocation included in
13 a filing made by such rating organization, the director shall, if the director grants
14 the appeal, order the rating organization to make the requested filing for use by the
15 appellant. In deciding such appeal, the director shall apply the standards set forth
16 in section 381.032.]

17
18 [381.108. 1. The director shall promulgate reasonable rules and statistical plans,
19 reasonably adapted to each of the rating systems on file with the department, which
20 may be modified from time to time, and which shall be used thereafter by each title
21 insurer in the recording and reporting of the composition of its business, its loss
22 and countrywide expense experience and those of its title insurance underwriters in
23 order that the experience of all title insurers may be made available, at least
24 annually, in such form and detail as may be necessary to aid him or her in
25 determining whether rating systems comply with the standards set forth in this
26 chapter. Such rules and plans may also provide for the recording of expense
27 experience items which are specially applicable to this state and are not susceptible
28 of determination by a prorating of countrywide expense experience. In
29 promulgating such rules and plans, the director shall give due consideration to the

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1 rating systems on file with the department, and in order that such rules and plans
2 may be as uniform as is practicable among the several states, to the rules and to the
3 form of the plans used for such rating systems in other states. Such rules and plans
4 shall not place an unreasonable burden of expense on any title insurer. No title
5 insurer shall be required to record or report its expense and loss experience on a
6 classification basis that is inconsistent with the rating system filed by it, nor shall
7 any title insurer be required to report the experience to any agency of which it is
8 not a member or subscriber. The director may designate one or more rating
9 organizations or other agencies to assist the director in gathering such experience
10 and making compilations thereof, and such compilations shall be made available,
11 subject to reasonable rules promulgated by the director, to title insurers and rating
12 organizations. The director shall give preference in such designation to entities
13 organized by and functioning on behalf of title insurers operating in this state. If
14 the director, in his or her judgment, determines that one or more of such
15 organizations designated as statistical agents is unable or unwilling to perform its
16 statistical functions according to reasonable requirements established from time to
17 time by the director, he or she may, after consultation with such statistical agent
18 and upon twenty days' notice to any affected companies, designate another person
19 to act on the director's behalf in the gathering of statistical experience. The
20 director shall in such case establish the fee to be paid to such designated person by
21 the affected companies in order to pay the total cost of gathering and compiling
22 such experience. Agencies designated by the director shall assist the director in
23 making compilations of the reported data and such compilations shall be made
24 available, subject to reasonable rules and regulations promulgated by the director,
25 to insurers, rating organizations and any other interested parties.

26 2. Reasonable rules and plans may be promulgated by the director for the
27 interchange of data necessary for the application of rating plans.

28 3. In order to further uniform administration of rate regulatory laws, the director
29 and every title insurer and rating organization may exchange information and

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1 experience data with insurance supervisory officials, title insurers and rating
2 organizations in other states, and may consult with them with respect to rate
3 making and the application of rating systems.

4 4. No rule or portion of a rule promulgated pursuant to the authority of this section
5 shall become effective unless it has been promulgated pursuant to the provisions of
6 chapter 536, RSMo.]

7
8 [381.111. A title insurer may obtain reinsurance for all or any part of its liability
9 under its title insurance policies or reinsurance agreements and may also reinsure
10 title insurance policies issued by other title insurers on single risks located in this
11 state or elsewhere. Reinsurance on policies issued on properties located in this
12 state may be obtained from any title insurers licensed to transact title insurance
13 business in this state, any other state, or the District of Columbia and which have a
14 combined capital and surplus of at least eight hundred thousand dollars.]

15
16 [381.112. For purposes of the premium tax imposed by sections 148.320 and
17 148.340, RSMo, the premium income received by a title insurer shall mean the
18 amount of premium actually remitted to the title insurer and shall exclude any
19 amount of premium retained by the title agent within the definition of "premium"
20 contained in section 381.009.]

21
22 [381.115. 1. A person shall not act in the capacity of a title agency or title agent
23 and a title insurer may not contract with any person to act in the capacity of a title
24 agency or title agent with respect to risks located in this state unless the person is a
25 licensed title agency or title agent in this state.

26 2. An individual employed by a licensed title agency or title agent to whom the
27 agency or agent delegates authority to act on that agency's or agent's behalf shall be
28 either individually licensed or be named on the employing agent's license if such
29 employee performs any of the functions defined in paragraph (a) of subdivision

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(25) of section 381.009. Each person named on the license shall possess all qualifications determined by the director to be appropriate. The director may adopt rules, regulations, and requirements relating to licensing and practices of persons acting in the capacity of title agencies or agents. These persons may include title agencies, title agents, employees of either, and persons acting on behalf of title agencies or title agents. This subsection is not intended to include persons performing clerical functions.

3. Every title agency licensed in this state shall:

(1) Exclude or eliminate the word insurer or underwriter from its business name, unless the word agency is also included as part of the name; and

(2) Provide, in a timely fashion, each title insurer with which it places business any information the title insurer requests in order to comply with reporting requirements of the director.

4. A title agency or title agent licensed in this state prior to the effective date of this chapter shall have ninety days after the effective date of this chapter to comply with the requirements of this section.

5. If the title agency or title agent delegates the title search to a third party, such as an abstract company, the agency or agent must first obtain proof that the third party is operating in compliance with rules and regulations established by the director and the third party shall provide the agency or agent and the insurer with access to and the right to copy all accounts and records maintained by the third party with respect to business placed with the title insurer. Proof from the third party may consist of a signed statement indicating compliance, and shall be effective for a three-year period. Each violation of this subsection is a class C violation as that term is defined in section 381.045.]

[381.118. 1. Each title agent licensed to sell title insurance in this state, unless exempt pursuant to subsection 8 of this section, shall successfully complete courses of study as required by this section. Any person licensed to act as a title

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1 agent shall, during each two years, attend courses or programs of instruction or
2 attend seminars equivalent to a minimum of eight hours of instruction. The initial
3 such two-year period shall begin January first of the year next following the
4 effective date of this chapter.

5 2. Subject to approval by the director, the courses or programs of instruction
6 which shall be deemed to meet the director's standards for continuing educational
7 requirements shall include, but not be limited to, the following:

- 8 (1) An insurance-related course taught by an accredited college or university or
9 qualified instructor who has taught a course of insurance law at such institution;
10 (2) A course or program of instruction or seminar developed or sponsored by any
11 authorized insurer, recognized agents' association or insurance trade association. A
12 local agents' group may also be approved if the instructor receives no
13 compensation for services;
14 (3) Courses approved for continuing legal education credit by the Missouri Bar.

15 3. A person teaching any approved course of instruction or lecturing at any
16 approved seminar shall qualify for the same number of classroom hours as would
17 be granted to a person taking and successfully completing such course, seminar or
18 program.

19 4. Excess classroom hours accumulated during any two-year period may be carried
20 forward to the two-year period immediately following the two- year period in
21 which the course, program or seminar was held.

22 5. For good cause shown, the director may grant an extension of time during
23 which the educational requirements imposed by this section may be completed, but such extension
24 of time shall not exceed the period of one calendar year. The director may grant an individual
25 waiver of the mandatory continuing education requirement upon a showing by the licensee that it
26 is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may
27 be granted for reasons including, but not limited to:

- 28 (1) Serious physical injury or illness;
29 (2) Active duty in the armed services for an extended period of time;

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1 (3) Residence outside the United States; or

2 (4) Licensee is at least seventy years of age and is currently licensed as a title
3 agent.

4 6. Every person subject to the provisions of this section shall furnish in a form
5 satisfactory to the director, written certification as to the courses, programs, or
6 seminars of instruction taken and successfully completed by such person. A filing
7 fee shall be paid by the person furnishing the report as determined by the director
8 to be necessary to cover the administrative cost related to the handling of such
9 certification reports, subject to the limitations imposed in subsection 9 of this
10 section.

11 7. The provisions of this section shall not apply to those natural persons holding or
12 applying for a license to act as a title agent in Missouri who reside in a state that
13 has enacted and implemented a mandatory continuing education law or regulation
14 pertaining to title agents. However, those natural persons holding or applying for
15 a Missouri agent license who reside in states which have no mandatory continuing
16 education law or regulations shall be subject to all the provisions of this section to
17 the same extent as resident Missouri title agents.

18 8. Rules necessary to implement and administer this section shall be promulgated
19 by the director of the department of insurance, including, but not limited to, rules
20 regarding the following:

21 (1) The insurance advisory board established by section 375.019, RSMo, shall be
22 utilized by the director to assist the director in determining acceptable content of
23 courses, programs and seminars to include classroom equivalency;

24 (2) Every applicant seeking approval by the director of a continuing education
25 course pursuant to this section shall pay to the director a filing fee of fifty dollars
26 per course, except that such total fee shall not exceed two hundred fifty dollars per
27 year for any single applicant. Fees shall be waived for local agents' groups if the
28 instructor receives no compensation for services. Such fee shall accompany any
29 application form required by the director. Courses shall be approved for a period

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1 of no more than one year. Applicants holding courses intended to be offered for a
2 longer period must reapply for approval;

3 (3) The director has the authority to determine the amount of the filing fee to be
4 paid by title agents at the time of license renewal, which shall be set at an amount
5 to produce revenue which shall not substantially exceed the cost of administering
6 this section, but in no event shall such fee exceed ten dollars per biennial report
7 filed.

8 9. All funds received pursuant to the provisions of this section shall be transmitted
9 by the director of the department of insurance to the department of revenue for
10 deposit in the state treasury to the credit of the department of insurance dedicated
11 fund. All expenditures necessitated by this section shall be paid from funds
12 appropriated from the department of insurance dedicated fund by the legislature.

13 10. When a title agent pays his or her biennial renewal fee, such agent shall also
14 furnish the written certification and filing fee required by this section.

15 11. No rule or portion of a rule promulgated pursuant to the authority of this
16 section shall become effective unless it has been promulgated pursuant to the
17 provisions of chapter 536, RSMo.]

18
19 [381.121. 1. The deposit required by section 381.051 and the capital, surplus and
20 unearned premium reserve of domestic title insurers shall be held in either cash or
21 investments now or hereafter permitted to domestic life insurers with regard to
22 their capital, reserve and surplus for reserve deposit.

23 2. A domestic title insurer may invest in title plants. For purposes of
24 determining the financial condition of such title insurer, title plants will be treated
25 as an asset valued at actual cost to the title insurer, not to exceed fifty percent of
26 the surplus as to policyholders as shown on the most recent annual statement of the
27 title insurer.

28 3. Any investment of a domestic title insurer acquired before September 28,
29 1987, and which under such sections, would be considered ineligible as an

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1 investment on that date, shall be disposed of within five years of September 28,
2 1987. The director, upon application and proof that forced sale of any such
3 investment would be contrary to the best interests of the title insurer or its
4 policyholders, may extend the period for disposal of the investment for a
5 reasonable time.]

6
7 [381.122. The director may during normal business hours examine, audit and
8 inspect any and all books and records maintained by a title agency pursuant to this
9 chapter.]

10
11 [381.125. 1. Whenever the business to be written constitutes affiliated business,
12 prior to commencing the transaction, the title agency or title agent shall ensure that
13 its customer has been provided with disclosure of the existence of the affiliated
14 business arrangement and a written estimate of the charge or range of charges
15 generally made for the title services provided by the title agency or agent.

16 2. The director may establish rules for use by all title agencies in the recording and
17 reporting of the agency's owners and of the agency's ownership interests in other
18 persons or businesses and of material transactions between the parties.

19 3. The director may require each title agency to file on forms prescribed by the
20 director reports setting forth the names and addresses of those persons, if any, that
21 have a financial interest in the agency and who the agency knows or has reason to
22 believe are producers of title insurance business or associates of producers.

23 4. Nothing in this chapter shall be construed as prohibiting affiliated business
24 arrangements in the provision of title insurance business so long as:

25 (1) The title agency, title agent or party making a referral constituting affiliated
26 business, at or prior to the time of the referral, discloses the arrangement and, in
27 connection with the referral, provides the person being referred with a written
28 estimate of the charge or range of charges likely to be assessed and otherwise
29 complies with the disclosure obligations of this section;

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(2) The person being referred is not required to use a specified title insurance agency, agent or insurer; and

(3) The only thing of value that is received by the title agency, title agent or party making the referral, other than payments otherwise permitted, is a return on an ownership interest.

For purposes of this subsection, the terms "required use" and "return on an ownership interest" shall have the meaning accorded to them under the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Section 2607, as amended and Regulation X, 24 CFR Section 3500, et seq.

5. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.]

[381.131. Any person who shall be appointed or who shall act as title insurance agent or agency for any title insurance company within this state, or who shall, as title insurance agent or agency, solicit applications, deliver policies and collect premiums thereon, or who shall receive or collect moneys from any source or on any account whatsoever, as agent or agency, for a title insurance company doing business in this state, shall be held responsible in a trust or fiduciary capacity to the company for any money so collected or received by him for such company.]

[381.151. Nothing in sections 381.011 to 381.241 shall be construed as prohibiting the division of premiums and charges between or among a title insurer and its title agent or agency, two or more title insurers, one or more title insurers and one or more title agents or agencies or two or more title agents or agencies, provided such division of premiums and charges does not constitute:

(1) An unlawful rebate or inducement under the provisions of sections 381.011 to 381.241; or

(2) Payment of a forwarding fee or finder's fee.]

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1 [381.211. Every title insurer shall file with the director copies of the following
2 forms it proposes to use in this state, including:
3 (1) Title insurance policies;
4 (2) Standard form endorsements; and
5 (3) Preliminary reports, commitments, binders, or any other reports issued prior
6 to the issuance of a title insurance policy.]
7

8 [381.221. For purposes of the premium tax imposed by sections 148.320 and
9 148.340, RSMo, the premium income received by a title insurer shall be one
10 hundred percent of the amounts paid by or on behalf of the insured as "premiums"
11 within the definition of that term contained in sections 381.011 to 381.241.]
12

13 [381.231. In addition to any other powers granted under sections 381.011 to
14 381.241, the director may adopt rules or regulations to protect the interests of the
15 public including, but not limited to, regulations governing sales practices, escrow,
16 collection, settlement, closing procedures, policy coverage standards, rebates and
17 inducements, controlled business, the approval of agency contracts, unfair trade
18 practices and fraud, statistical plans for data collection, consumer education, any
19 other consumer matters, the business of title insurance, or any regulations
20 otherwise implementing or interpreting the provisions of sections 381.011 to
21 381.241. No rule or portion of a rule promulgated under the authority of this
22 chapter shall become effective unless it has been promulgated pursuant to the
23 provisions of section 536.024, RSMo.]
24

25 [381.241. 1. The director of insurance or his duly authorized representative may at
26 any time and from time to time, inspect and examine the records, books and
27 accounts of any title insurer, and may require such periodic and special reports
28 from any title insurer, as may be reasonably necessary to enable the director to
29 satisfy himself that such title insurer is complying with the requirements of

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1 sections 381.011 to 381.241. No person shall be authorized to inspect and examine
2 the records, books and accounts of any title insurer unless such person has five
3 years experience in the title insurance business. It shall be the duty of the director
4 at least once every four years to make or cause to be made an examination of every
5 title insurer. The reasonable expense of any examination shall be paid by the title
6 insurer.

7 2. The purpose of such examination is to enable the director to ascertain
8 whether there is compliance with the provisions of sections 381.011 to 381.241. If
9 as a result of such examination the director has reason to believe that any rate,
10 rating plan or rating system made or used by an insurer does not meet the standards
11 and provisions of sections 381.011 to 381.241, applicable to it, the director may
12 hold a public hearing. Within a reasonable period of time, which shall be not less
13 than ten days before the date of such hearing, he shall mail written notice
14 specifying the matters to be considered at such hearing to every person, insurer or
15 organization believed by him not to be in compliance with the provisions of
16 sections 381.011 to 381.241.

17 3. If the director, after such hearing, for good cause finds that such rate, rating
18 plan or rating system does not meet the provisions of sections 381.011 to 381.241,
19 he shall issue an order specifying in what respects any such rate, rating plan or
20 rating system fails to meet such provisions, and stating when, within a reasonable
21 period of time, the further use of such rate, rating plan or rating system by the title
22 insurer which is the subject of the examination shall be prohibited. A copy of such
23 order shall be sent to such title insurer.]

24
25 [381.410. As used in sections 381.410 and 381.412, the following terms mean:

26 (1) "Cashier's check", a check, however labeled, drawn on the financial institution,
27 which is signed only by an officer or employee of such institution, is a direct
28 obligation of such institution, and is provided to a customer of such institution or
29 acquired from such institution for remittance purposes;

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1 (2) "Certified funds", U.S. currency, funds conveyed by a cashier's check, certified
2 check, teller's check, as defined in Federal Reserve Regulations CC, or wire
3 transfers, including written advice from a financial institution that collected funds
4 have been credited to the settlement agent's account;

5 (3) "Director", the director of the department of insurance, unless the settlement
6 agent's primary regulator is another division in the department of economic
7 development. When the settlement agent is regulated by such division, that
8 division shall have jurisdiction over sections 381.410 and 381.412;

9 (4) "Financial institution":

10 (a) A person or entity doing business under the laws of this state or the United
11 States relating to banks, trust companies, savings and loan associations, credit
12 unions, commercial and consumer finance companies, industrial loan companies,
13 insurance companies, small business investment corporations licensed pursuant to
14 the Small Business Investment Act of 1958 (15 U.S.C. Section 661, et seq.), as
15 amended, or real estate investment trusts as defined in 26 U.S.C. Section 856, as
16 amended, or institutions constituting the Farm Credit System pursuant to the Farm
17 Credit Act of 1971 (12 U.S.C. Section 2000, et seq.), as amended, or any person
18 which services loans secured by liens or mortgages on real property, which person
19 may or may not maintain a servicing portfolio for such loans; or

20 (b) The following persons or entities if their principal place of business is in
21 Missouri or a state which is contiguous to Missouri:

22 a. A mortgage loan company which is subject to licensing, supervision or auditing
23 by the Federal National Mortgage Association, or the Federal Home Loan
24 Mortgage Corporation, or the United States Veterans Administration, or the
25 Government National Mortgage Association, or the United States Department of
26 Housing and Urban Development, or a successor of any of the foregoing agencies
27 or entities, as an approved seller or servicer; or

28 b. A person or entity acting as a mortgage loan company pursuant to court order;

29 (5) "Settlement agent", a person, corporation, partnership, or other business

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1 organization which accepts funds and documents as fiduciary for the buyer, seller
2 or lender for the purposes of closing a sale of an interest in real estate located
3 within the state of Missouri, and is not a financial institution, or a member in good
4 standing of the Missouri Bar Association, or a person licensed under chapter 339,
5 RSMo.]

6
7 [381.410. As used in this section and section 381.412, the following terms mean:

8 (1) "Cashier's check", a check, however labeled, drawn on the financial institution,
9 which is signed only by an officer or employee of such institution, is a direct
10 obligation of such institution, and is provided to a customer of such institution or
11 acquired from such institution for remittance purposes;

12 (2) "Certified funds", United States currency, funds conveyed by a cashier's check,
13 certified check, teller's check, as defined in Federal Reserve Regulations CC, or
14 wire transfers, including written advice from a financial institution that collected
15 funds have been credited to the settlement agent's account;

16 (3) "Director", the director of the department of insurance, unless the settlement
17 agent's primary regulator is another division in the department of economic
18 development. When the settlement agent is regulated by such division, that
19 division shall have jurisdiction over this section and section 381.412;

20 (4) "Financial institution":

21 (a) A person or entity doing business pursuant to the laws of this state or the
22 United States relating to banks, trust companies, savings and loan associations or
23 credit unions; or

24 (b) The following persons or entities if their principal place of business is in
25 Missouri or outside Missouri, but within the St. Louis or Kansas City standard
26 metropolitan statistical area:

27 a. A mortgage loan company which is subject to licensing, supervision or auditing
28 by the Federal National Mortgage Association, or the Federal Home Loan
29 Mortgage Corporation, or the United States Veterans Administration, or the

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1 Government National Mortgage Association, or the United States Department of
2 Housing and Urban Development, or a successor of any of the foregoing agencies
3 or entities, as an approved seller or servicer;

4 (5) "Settlement agent", a person, corporation, partnership, or other business
5 organization which accepts funds and documents as fiduciary for the buyer, seller
6 or lender for the purposes of closing a sale of an interest in real estate located
7 within the state of Missouri, and is not a financial institution, or a member in good
8 standing of the Missouri Bar , or a person licensed under chapter 339, RSMo.]
9

10 [381.412. 1. A settlement agent who accepts funds of more than ten thousand
11 dollars, but less than two million dollars, for closing a sale of an interest in real
12 estate shall require a buyer, seller or lender who is not a financial institution to
13 convey such funds to the settlement agent as certified funds. The settlement agent
14 shall record all security instruments for such real estate closing within three
15 business days of such closing after receipt of such certified funds. A check:

16 (1) Drawn on an escrow account of a licensed real estate broker, as regulated and
17 described in section 339.105, RSMo;

18 (2) Drawn on an escrow account of a title insurer or title insurance agency licensed
19 to do business in Missouri;

20 (3) Drawn on an agency of the United States of America, the state of Missouri or
21 any county or municipality of the state of Missouri; or

22 (4) Drawn on an account by a financial institution;
23 shall be exempt from the provisions of this section.

24 2. No title insurer, title insurance agency or title insurance agent, as defined in
25 section 381.031, shall make any payment, disbursement or withdrawal in excess of
26 ten thousand dollars from an escrow account which it maintains as a depository of
27 funds received from the public for the settlement of real estate transactions unless a
28 corresponding deposit of funds was made to the escrow account for the benefit of
29 the payee or payees:

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- 1 (1) At least ten days prior to such payment, disbursement or withdrawal;
2 (2) Which consisted of certified funds; or
3 (3) Consisted of a check made exempt from this section by the provisions of
4 subsection 1 of this section.

5 3. If the director finds that a settlement agent, title insurer, title insurance agency
6 or title insurance agent has violated any provisions of this section, the director may
7 assess a fine of not more than two thousand dollars for each violation, plus the
8 costs of the investigation. Each separate transaction where certified funds are
9 required shall constitute a separate violation. In determining a fine, the director
10 shall consider the extent to which the violation was a knowing and willful
11 violation, the corrective action taken by the settlement agent to ensure that the
12 violation will not be repeated, and the record of the settlement agent in complying
13 with the provisions of this section.]
14

15 [381.412. 1. A settlement agent who accepts funds of more than ten thousand
16 dollars for closing a sale of an interest in real estate shall require a buyer, seller or
17 lender who is not a financial institution to convey such funds to the settlement
18 agent as certified funds. A check:

- 19 (1) Drawn on an escrow account of a licensed real estate broker, as regulated and
20 described in section 339.105, RSMo;
21 (2) Drawn on an escrow account of a title insurer or title insurance agency licensed
22 to do business in Missouri;
23 (3) Drawn on an agency of the United States of America, the state of Missouri or
24 any county or municipality of the state of Missouri; or
25 (4) Drawn on an account by a financial institution;
26

27 shall be exempt from the provisions of this section.

28 2. No title insurer, title insurance agency or title insurance agent, as defined in
29 section 381.009, shall make any payment, disbursement or withdrawal in excess of

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1 ten thousand dollars from an escrow account which it maintains as a depository of
2 funds received from the public for the settlement of real estate transactions unless a
3 corresponding deposit of funds was made to the escrow account for the benefit of
4 the payee or payees:

5 (1) At least ten days prior to such payment, disbursement or withdrawal;

6 (2) Which consisted of certified funds; or

7 (3) Consisted of a check made exempt from this section by the provisions of
8 subsection 1 of this section.

9 3. If the director finds that a settlement agent, title insurer, title insurance agency
10 or title insurance agent has violated any provisions of this section, the director may
11 assess a fine of not more than two thousand dollars for each violation, plus the
12 costs of the investigation. Each separate transaction where certified funds are
13 required shall constitute a separate violation. In determining a fine, the director
14 shall consider the extent to which the violation was a knowing and willful
15 violation, the corrective action taken by the settlement agent to ensure that the
16 violation will not be repeated, and the record of the settlement agent in complying
17 with the provisions of this section.]; and
18

19 Further amend said bill by amending the title, enacting clause, and intersectional references
20 accordingly.
21

22 Further amend said bill by amending the title, enacting clause, and intersectional references
23 accordingly.
24

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